IOSCO Task Force on Cross Border Regulation

Washington DC Industry Meeting held on 28 April 2014 at the offices of US CFTC

Summary of discussion

Introduction

The Chair (Ashley Alder) thanked the CFTC for hosting the meeting and all participants for attending the meeting.

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

(i) There are few, if any, universal principles that guide the way regulators coordinate on cross border regulation. National laws predominantly govern cross border interaction. 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. Some regulators in more advanced markets find such standards less useful and difficult to implement as many 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 regulators 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 sharing of views and advancing better coordination over the cross border supervision of firms operating globally. Currently supervisory cooperative arrangements among regulators tend to be mainly bi-lateral.

- The Chair commented that the last 2 industry meetings in Asia and in London were very useful and the issues raised were broadly similar.

- The Vice Chair (Professor Anne Lachat) mentioned that industry feedback is of great value to the Task Force on Cross Border Regulation (TF) as regulators and supervisors usually focused on their own local markets. The challenge for regulators is to find an appropriate degree of domestic regulation and to consider whether it is feasible to rely or trust the regulations of other jurisdictions by reviewing the benefits or disadvantages of various cross border instruments or tools. Participants were encouraged to be as concrete and specific as possible regarding their experiences in the use of the tools and across business lines and institutions.

Next steps

The TF will next draft the consultation paper which is targeted to be issued by Q3 2014 – *Note: the timing has been revised since the Washington DC meeting*. The reason for having the current industry meetings was to have a better informed consultation paper. The FSB expects the TF to provide some form of deliverable by the G20 Summit in Brisbane in November 2014. The TF may consider preparing a progress report to the G20.

Summary of key topics discussed:

The Chair mentioned that the work of the TF does not overlap with that of the ODRG.

1. Least successful examples

- It was considered that the least successful cross border approach would be when **individual national regulators create their own set of rules and after that industry and other regulators have to try to resolve the differences**.

OTC Derivatives

Implementation of equivalence assessments and 'gold plating' of international standards

- One firm which had CCPs, exchanges and trade repositories in both the US and EU said that the **biggest challenge for the firm in relation to CCPs and exchanges is the line-by-line application of equivalence,** as opposed to an outcome based approach.

- '**Gold plating' by regulators of international standards have also posed challenges for firms offering their services cross border.** Examples given would be that the EU has gold plated the CPSS IOSCO PFMI principles regarding the number of days of margin coverage (e.g. 2 days liquidity standard in EU vs. 1 day liquidity standard in the US). In the US, treasuries are not considered part of liquidity unlike other jurisdictions and, under customer gross margining, US CCPs are in practice holding 220% more margin compared to CCPs in the EU. However, the EU insists on a 2 day margin coverage when assessing equivalence of a third country CCP. This will result in suboptimal results for markets and **increased costs for the industry and its customers**.

- The issue of the 1 day vs. 2 day liquidity standard is not just confined to the EU and US. It was found that **in Asia the results are similar in that a 1 day gross margining standard approach required CCPs to hold more margin than the 2 day net liquidity standard**. It was hoped that the TF could help facilitate a fair and transparent outcomes based common approach.

- **IOSCO** should provide **greater transparency of the equivalency process to the industry** and may perhaps **facilitate a form of PFMI standards for CCP**s.

- An example of a **conflict of law** would be the rule which requires that in the event the treasury function of an EU CCP incurs losses over a certain limit, the losses would be distributed among clearing members on a pro-rated basis. This is not allowed by the CFTC rules.

- One participant cautioned that **regulators should not combine different areas of derivative reform into a general outcomes based framework**. There should be specificity of issues (e.g. 1 day vs. 2 day liquidity standard) and then work done to resolve each of the issues in that area. This is to **avoid dilution of standards and investor protection overall**. There was **a concern among civil society groups that the rules agreed upon at the national level may disappear in the possibly less democratic process at the international level.** The process should allow for national differences.

Lack of coordination on data sharing

- Participants highlighted a concern regarding the **lack of international coordination on data and lack of data transparency across borders**. Even within national jurisdictions, there were different data set requirements. It was recognized that regulators had encountered challenges in agreeing to share data and overcoming the data privacy laws on transmitting data to a foreign regulator or even to an international affiliate to manage risk.

Accounting standards

- Another less successful example was in the **cross border approach to accounting standards**. Discussions between FASB and IASB have been ongoing for 10 years but appear to have drifted even further apart.

  The Chair emphasized the **importance of accounting standards**, particularly in the valuation of financial assets. In his view, the way securities regulators, through IOSCO, interact with the accounting bodies can be improved.

Trade Reporting (TR)

- The **TR process in the EU and US are currently not structured to provide regulators with the information they need and at the time it is needed**. It was mentioned that the industry would have to incur significant costs to enable regulators to obtain the information they need during a time of crisis. **A more efficient process would be if clearing houses were able to share the information they hold directly with regulators and TRs would only hold information on trades that are not cleared.**

- The TR issue **highlights the importance of having early discussions at the international level to achieve as much consistency as possible**. One participant gave the example that the firm he represented had to report to 3 TRs on the same transaction but each TR had slightly different requirements in terms of reporting fields and timing for submission. This presented challenges to both dealers and their clients.

- **Reporting** was one area where it was important and worthwhile **for the industry and regulators to have more global consistency and better harmonization**, although it was recognized that this would take time.

Registration of investment advisors

- For hedge funds it was observed that the SEC's registration model requires all firms to play by the same rules in the US, unless the firm operates offshore. The **EU has more complex registration and filing requirements under AIFMD for third country managers** where potentially different requirements for different EU jurisdictions act as a barrier to entry.

2. Successful examples

- For derivatives regulation, an example of a **successful global standard developed by the industry** was in the area of **performance reporting standards by asset managers** which was initiated by the UK and the US 20 years ago and was subsequently adopted on a global basis (currently by 35 different nations). The standards are global but the enforcement is local.

- **Legal Entity Identifier (LEI)** – The LEI is another good example of a successful approach. This initiative came out of Dodd Frank and hence has a first mover advantage element. It was recognized early on that for this to work, it had to be global and so the FSB adopted it and IOSCO now has many members working to develop common standards in this area.

Provision of asset management services on a cross border basis

- There should be more **tailored solutions for the asset management industry**. Apart from UCITS funds, most foreign funds are not sold to retail clients because their structure makes it difficult to comply with local laws. Tax and treaty benefits also make foreign funds competitively unattractive for investors. Thus, the only way to access the fund market overseas is to **provide asset management services on a cross border basis**. EU and US fund managers are able to manage a local fund set up in the other jurisdiction and thus access the overseas fund market. **This approach has been quite successful.** As of June 2013, around USD 2 billion of mutual fund assets (16% of total mutual fund assets) are managed by foreign owned investment advisors and their affiliates.

- **Regional passporting** (in the EU) was also considered a successful model.

3. CCP risk profile

- **CCPs differ from banks in terms of risk profile** as they do not engage in risk taking activities nor take deposits. **CCPs are primarily concerned about risk mitigation** (the main objective was to be prepared for the collapse of one of its members and to withstand it). This is a model that is well suited to **minimum standards**. More specific or detailed international standards may result in a wrong outcome and **regulators should allow CCP operators greater leeway in tweaking the rules to suit local conditions and specific products under a common framework**.

- **Competition among CCPs, even among national entities, is a key reason to have strong risk controls for CCPs**. Clearing members and end users were encouraged to work with regulators and providers to ensure a sufficiently high standard of risk controls, as it is not possible to tell where the next crisis will originate.

- One participant expressed concern about competition among CCPs based on the minimum level of insurance required. If global shopping for minimum level of insurance is allowed, there will be a race to the bottom. Civil society reform organizations believe that there had been **a massive underinsurance problem prior to the financial crisis and even adequate insurance was defined as a cost and inefficiency during normal times** when it should be considered a real cost of business.

- In terms of **resolution of clearing houses**, one participant from a clearing firm said that it had put in place a **resolution plan** that addressed the 2 things that may cause CCPs problems – (i) Default of a member(s) and (ii) Dramatic decline in business such that the organisation cannot be sustained. It had also carried out contingency exercises and established a "limited resource outcome' on 3 key areas - rates, credit and futures. CCPs are managed and regulated in a way that their risks are contained.

- It was noted that **central banks are becoming more involved in regulating CCPs**. The BCBS requires the CPSS IOSCO PFMI standards to be implemented in a jurisdiction as a condition to becoming a QCCP under Basel rules.

- It was suggested that there will be **a continuous process to adjust to national differences to facilitate cross border activity** due to national regulators having different remits and different values concerning conduct. Each economy will have a **different view of systemic risk** based on factors such as the asset values and leverage levels of the institutions in a particular economy.

  The Chair mentioned that **securities regulators** also have to consider and reach a common understanding of what it means to address **systemic risk** under the relatively new IOSCO principle 6, **unlike in the banking industry where prudential standards are well established and where central banks / banking regulators often have financial stability mandates (e.g capital / liquidity)**.

4. Early consultation and discussion on cross border rulemaking process

- Participants generally agreed that a successful approach to **facilitate consistent outcome**s **on cross border rules** would involve **international dialogue and consensus to take place ahead of the rulemaking and before it is taken to the implementation stage.**

- Good examples of such an approach would be the **BCBS IOSCO margin rules for non-centrally cleared derivatives and IOSCO's work on benchmarks**. It was recognized that time did not permit this process to take place for derivatives reform post crisis.

- It was noted that international principles can drive up the standards of regulation in jurisdictions and that was generally a good thing. **The ideal approach would be that if a jurisdiction was going to set higher standards in certain aspects (gold plating), then it should be discussed at an earlier stage by a group of experts beforehand.** In addition, the **gold plated new rules should not be used as criteria for judging equivalence for the purposes of recognition**.

- **IOSCO should take a stronger lead at the outset in terms of rulemaking or reconciling differences in the derivatives reform space. IOSCO may need 'more teeth' in the international regulatory community.**

- The Chair commented that **gathering the resources needed to have that early discussion between regulators would be difficult**. Separately, most of the comparisons made by regulators involving global principles, even effective ones such as the PFMI principles, are still made within the boundaries of their national laws which are geared to protecting their own investors. So there will be differences.

- One participant raised a concern that once a cross border rule was introduced, what would stop it from spreading into other areas beyond its initial scope. International standards may help prevent a race to the bottom but the question should be asked regarding what is the standard supposed to address.

5. Better international coordination and need for 'common rulebook'

- One participant said that **coordination can make good policy better**. There was still a need to go through the rulemaking process to come out with **sensible rules and recognise that some rules need to be globalised**.

- There was a need in some areas and activities to have a **common rulebook** and **better coordination between regulators would be helpful** such as in areas highlighted by the senior supervisors report on counterparty risk exposures in banks.

  The Chair remarked that given limited resources, there was a **need for prioritization of areas of cross border activities that IOSCO should focus on** and recognition of other areas where local regulation would be sufficient. This was a difficult distinction to make.

- It was important within each national jurisdiction to have a **level playing field for participants in complying with the same standards**, whether the participant was local or from overseas. Failure to do so would result in **decreased competition** in that marketplace.

- The Chair gave an example of firms having their **business transactions split up** whereby **the trades would originate in one place (so the conduct and consequences stay within the jurisdiction) but the risk is booked elsewhere**. This applied particularly to the wholesale business of investments banks whereby a firm's business in relation to a jurisdiction did not correlate or be limited to where branches and subsidiaries are located, which raised issues regarding origination and subsidiary responsibility for risk.

- **Friction free is not always better** - it was pointed out that in the 6 to 7 years prior to the financial crisis, **there was a huge increase in gross international flows of cross border bank liabilities (increase of 3.5 times in 7 years)** which was out of proportion to actual international trade. This highlighted that a **friction free environment was not necessarily better as it was not conducive to global financial stability**. It was suggested that **global regulators should look at the negative and positive aspects of aiming for a friction free environment**.

- A participant representing an SRO took the view that cross border rules have little to do with its regulatory responsibilities because **it is not easy to objectively ascertain whether the rules in an overseas jurisdiction are being effectively implemented and enforced** and as such, **it is difficult to defer to another jurisdiction's rules**. The SRO's most important priority was **investor protection because the organisation was held directly accountable should anything happen to local investors** and saying that an overseas regulator has oversight does not help. A firm may also decide to structure its derivatives business in affiliates that are outside the SRO's remit and hence not regulated

as the SRO does not have oversight over holding companies or affiliates. The SEC has jurisdiction over which broker dealers are registered.

- The Chair commented that **a broader discussion on investor protection and supervision in various sectors of financial services has arguably been diverted by the debate going on in the derivatives space**.

6. IOSCO regulatory remit and BCBS approach

- It was observed that **FSB or BCBS rules are implemented more efficiently compared to the implementation of IOSCO rules**.

- The Chair commented that the BCBS remit was focused on bank capital and liquidity standards and its members have common regulatory objectives. **IOSCO has a much wider scope and its members have different remits under national laws and cover an enormous range of activities** in comparison to bank regulators. **This makes it harder for IOSCO to prioritise and focus on key issues**. The Vice Chair agreed that it was easier for BCBS to agree on commonalities as it has the advantage of being a much smaller group that only regulate banks. It may also be useful to consider the BCBS approach to conducting peer reviews which lead to effective implementation of standards, which have to be granular enough.

- **Successful implementation approach by BCBS** - One participant said that the BCBS, like IOSCO, was not treaty based nor did it have binding powers. The BCSB focused on institutions whereas IOSCO looks at products and activities. However, BCBS members understood that they are **held accountable to the standards issued by BCBS** and recognized that the **success of the Basel III framework would depend on consistent implementation across jurisdictions**.

  This gave rise to the creation of the BCBS **implementation group and formalized process of peer reviews and assessment**. This system of implementation was generally successful, although it was not considered perfect. It comprises of **3 explicit levels of assessment** (i.e. implementation of the standard, interpretation of the standard and outcome based assessment in a jurisdiction) and a decision is made as to whether the jurisdiction has implemented the standard or not. **It was suggested that IOSCO should take into account the importance of assessment in order to achieve effective implementation**.

- The Chair remarked that IOSCO has an **Assessment Committee** chaired by Steven Bardy from ASIC which showed that IOSCO recognized the importance of having centralized assessment to help ensure that global standards have the necessary traction. **Resources and remit play a large part in deciding the extent and depth of cross border assessments of member jurisdictions**. Assessments include thematic reviews and country reviews. The Vice Chair added that country reviews are resource intensive but a lot can be learnt from going through the exercise.

- **Peer reviews (e.g. FSB and IMF FSAP)** – one participant was supportive of such peer reviews as it can form a type of “case law” which may help set standards in the future.

7. Sharing of reported data and information

- It was noted that **the different filing requirements in the US and the EU are a burden to industry** and makes it difficult for regulators to compare information across jurisdictions. It was recognized that **regulators need good information to make good**

decisions and to have confidence that they are getting the right answers to well targeted questions. It was hoped that **there would be more coordination and harmonization over time** in this area.

It was emphasized that **controls over the confidentiality of information reported and careful sharing among regulators are critical to the operation of firms**. Dodd Frank was cited as a good example for providing strong protection over the confidentiality and sharing of reported information.

- The Chair commented that **collaborative supervision** among regulators cross border is an important element and not just regarding CCPs. By and large, the mechanism for cross border sharing of information is **covered by a MOU or similar arrangements between national regulators**. The Vice Chair added that **information sharing among regulators on enforcement matters** was usually easier and done through more established channels. In the context of **supervisory cooperation and sharing of supervisory information, the scope was much wider and trust must be built up among regulators over time, possibly through supervisory colleges**.

8. Issue of regulatory duplication, gaps or conflicts and restructuring in response to regulation

- **Issue of recognition of third country trading venues under EMIR** is a good example of a **timing problem** that has had significant effects on the market and firms ability to access it.

- A concern was raised regarding **business restructuring** - it was reported that some banks are reviewing their relationships with their subsidiaries in order **to claim that derivative subsidiaries are not guaranteed by the parent company and consequently take advantage of the fact that the CFTC cross border rules do not apply to non-guaranteed subsidiaries**. This blurred the lines of financial responsibility and showed a lack of clarity and cross border reach by national regulators. This may lead to arbitrage issues and have an impact on international cross border coordination.

- Another example of a **conflict between EU and US rules is on customer protection**. A US person has to clear a swap using an FCM and DCO recognized by the CFTC and both entities are not allowed to have **individual segregation**. However individual segregation is required under EMIR. This was a challenge for clearing members operating cross border and a good example of fragmentation which affects end users / clients as these **clearing firms have to have both an EU entity and a US clearing entity, which is costly and inefficient**. Clients are confused by which entity to use as they have different disclosure standards and complex segregation options.

9. Views on areas where regulatory differences may be justifiable

- One participant made the point that if there is to be only one global rule book, it had to be appropriately targeted. While there were **advantages of having differences or disparities in the market**, it was important to have **relevant, timely and accurate disclosure of information to investors** (e.g. accounting reporting by individual entities etc.) so that they understand what is going on and can make informed decisions.

  The Chair commented that from a regulators point of view, the area of **cross border capital raising and the associated disclosure** has worked relatively well.

- It was suggested that differences in markets must be taken into account when introducing **prudential policy that is countercyclical**.

- Other factors that should be taken into account relate to the **stage of development of the particular market**. In cases, where some markets do not have well thought through mechanisms for holding collateral against swap trades, flexibility should be given to allow those markets to hedge their risks. Another factor for consideration is that **not every jurisdiction experienced the financial crisis to the same extent as the EU and US** which had driven the scope of the post financial crisis reform effort. A **more piecemeal approach towards reform** was seen in jurisdictions that were less affected by the crisis.

- A participant from academia mentioned that rather than debating on the benefits or disadvantages of having differences, **the focus should be on how to accommodate the differences found in different markets and are there any principles or regimes that could be agreed upon that allow differences to be coordinated**. There are **principles of private international law** that may help determine which jurisdiction trumps in a particular situation.

- It was inevitable that there be differences, but the **extraterritorial exportation of those differences should be contained**.

10. Ways to improve cross border regulatory coordination

Private international law

- It was suggested that there are other tools that can be used to address cross border issues such as **private international law**. This legal area (conflicts of law) allows for a fair degree of precision and may help determine whether harmonization is beneficial or not or whether a degree of regulatory arbitrage is justifiable.

- The Chair mentioned that private international law operates within national legal systems and such issues are dealt with by national courts. An issue for IOSCO and securities regulators is that **currently there is no treaty nor any legal enforceability when dealing with cross border issues**. The question was asked as to how private international law could be used in the IOSCO context.

- **Concepts of private international law are already being applied when control of a certain transaction or entity is decided based on its location**. ISDA, although not a court, was an example of the use of conflicts law to provide an established mechanism to enable parties to a transaction to have a clear understanding of who has control over which area. **Conflicts of law principles may be used as a template or pathway to think through cross border issues in a way that is principled and legitimate from the perspective of national legislatures to protect local investors**.

- Another participant suggested that IOSCO should be the body to put forward the use of private international law in helping to resolve cross border issues.

11. Role of IOSCO

- It was mentioned that the TF outreach and the **industry meetings have been well received by the market**.

Approaches to cross border rulemaking and implementation

- It was suggested that IOSCO, when developing principles for a particular area, should **discuss how best to apply that regulation cross border and its implications**, even if this is not included in the final report.

  The Chair mentioned that there are a number of approaches to cross border regulation:
  - A **'bottom up' approach** from local / national law to which all securities regulators are bound. National laws are used to address cross border issues.
  - A **'top down' approach**, whereby certain industry sectors have repeatedly asked IOSCO for a 'global rulebook' to guide cross border activities. As IOSCO is not a treaty-based body, the basis for doing this seems less strong than the bottom up approach.

  The challenge for IOSCO was to try **to combine the two approaches in a way that works, possibly by having sufficient international discussion and the use of international standards when implementing and exporting local laws**.

- It was suggested that IOSCO, being in the center of securities regulation, has a huge opportunity and an important role to play in **driving a range of initiatives such as to improve consistency, remove arbitrage opportunities, arbitrate differences between jurisdictions, resolve ongoing differences between the US and EU etc**. It was also mentioned that **market participants have always encouraged more dialogue between the international regulatory community**.

- The Chair commented that IOSCO was a platform where standards and principles can be agreed and there is an expectation that all IOSCO members will implement them in their respective jurisdictions. Prior to the crisis, there had been less focus on how those principles and standards were to be implemented and how different jurisdictions interact. **Even the IMF FSAP exercise does not factor in any cross border elements when benchmarking against implementation of the 38 IOSCO principles for the securities sector**. The TF should therefore focus on the following areas:

  - IOSCO as an international organization has a role in **identifying the approaches and limitations of uniform approaches to cross border securities regulation**. This is a complex area, and is more so than in the banking sector.
  - **Describe the cross border tools that are used and the different purposes** for which the tools are used from a national perspective.
  - Explore the **possibility that IOSCO may come up with guidance** around how regulators may operate cross border (**recognizing that this is currently largely dictated by national law**).
  - This may then lead to a discussion on how IOSCO, as an international organisation, can do more in the area of **international collaboration** (not harmonization).

  Cross border tools already exist. The various tools used by regulators may not be sufficiently systematic or well understood or have been applied in different ways and their definitions or terminology are perhaps confusing. It is important to be clear regarding the **purpose of those tools (i.e. why they are used and when)** as this would provide a good basis for further discussion.

Cross border resolution

- There was a suggestion that IOSCO could look into the area of **cross border resolution**. The Chair expressed the view that **resolution techniques depend on the ability to enforce**. IOSCO can exert **peer pressure** and **conduct assessments** which can be effective but **IOSCO is unable to be a venue for dispute resolution on cross border**

issues as it does not have the legal ability to enforce rules and standards. Given this, one participant agreed that **peer reviews and assessment is the right way to go in terms of resolving cross border differences**.

Way forward in the short term

- The issue was raised as to **what can IOSCO do in the short term in terms of (i) earlier dialogue and engagement between regulators and policy makers on cross border rules and (ii) timing - ensuring reasonable rule-making timelines by jurisdictions**. To expedite these objectives, it was suggested that IOSCO could start on a smaller scale using a BCBS style approach such as involving G10 or G20 members first and perhaps only focusing on the derivatives area.

- IOSCO should not let the "perfect be the enemy of the good". **The stronger and more inclusive the consultation process is within IOSCO in developing cross border rules, the more difficult it is for jurisdictions to ignore**. The Chair said that it was also a **question of resources**, as most local regulators spend the majority of their time and effort on rule making under national law and the degree they have resources to engage in rule making at an international level may be limited.

- The **industry also has resource constraints** and the **challenge was prioritizing which rules to focus and comment on**. As such, **prioritization at the IOSCO level** would help guide the industry in this area. Even before that stage, **regulators need to firstly decide how much they are committed to IOSCO rule making, as the industry will track that and then focus resources on identified key areas**.

Outreach to civil society groups

- Civil society groups believe that there is a need to rethink the adoption of cross border rules by national regulators and not just accept boilerplate agreements. An example would be trade agreements where it was important to consider the negatives of international capital flows (e.g. hot money and stability risks) and not just focus on the upsides. **Proactive outreach by regulators to civil society groups** and not just to industry is important **and flagging key areas or priorities would be helpful**. Civil society groups are probably the **most resource constrained** and may be disadvantaged in terms of being able to keep track of the different legislative and enforcement processes. The point was made that the main reason many of these laws are passed are for the benefit of the larger public served by the financial sector.

  The Chair commented that IOSCO does hold regular industry and stakeholder meetings.

US regulator's views

- IOSCO was a forum whereby regulators from different markets meet to discuss what works and what doesn't in the regulatory sphere. It was recognized that IOSCO can play a valuable role to shed light on issues that have arisen in the cross border regulatory space and to make recommendations on areas where there was need for better coordination and communication and to develop ideas and processes that are successful. For example, the SEC Commissioners commended the CPSS IOSCO PFMI rules.

- There was a view that IOSCO would not be seen as the body to enforce communication or coordination or to sanction members. The point was made that US regulators would not look primarily to IOSCO for regulations or standards to follow nor as an arbiter for disputes or as a super regulator. IOSCO would not be considered to be "superior" to its members.

- Significant time and resources have been invested in IOSCO projects. The degree that US regulators are guided by IOSCO depended on the rigor of the work carried out, the depth of analysis and prioritization of issues (not just on systemically important issues).

Industry perception of IOSCO

- There was a view that **the work of the TF is perceived as future regulation**, rather than dealing with current cross border issues and would therefore not impact the industry in the near future. There were areas where IOSCO has been influential such as the CPSS IOSCO PFMI principles and potentially on benchmarks rules, just not in all areas of IOSCO work.

  The Vice Chair suggested that **smaller groups** (loosely based on the ODRG style) **that focus on resolving specific cross border issues and problems may provide the necessary rigor and analysis needed to produce good results**, **which can then be endorsed by IOSCO as a whole**.

- One participant representing an organization of investment professionals with a membership of over 120,000 said that, for most part, the organisation focuses on **developed markets where not a lot is heard about IOSCO**. It was noted that **there is more interest taken by emerging markets in IOSCO activities**. An example was given whereby the organization was encouraged to be more involved with IOSCO's affiliate members committee by its Brazilian members because the national securities regulator (CVM) was reviewing the asset manager rules in Brazil and CVM would be looking to IOSCO standards in this area.

- 5 to 6 years ago there was not a lot of industry interest in the work of IOSCO. **The financial crisis had given IOSCO a bigger platform and in particular the work of the TF had increased IOSCO's visibility significantly.** There are expectations that the result of the TF will determine IOSCO's role going forward. If the TF comes out with something tangible and real, it would enhance IOSCO's reputation. Conversely, if it doesn't manage to achieve its objectives, it may have a negative impact.

- The Chair commented that the IOSCO MMOU on enforcement is a very successful tool that the industry may not be aware of because it deals with information requests between regulators only. All IOSCO members are expected to sign up to the MMOU and members who fail to do so are not allowed to sit on the Board nor participate in decision making. This is one example where peer pressure and sanctions against non-compliant members can be effective.

  At a practical level, when there is a crisis, regulators will quickly get together to resolve issues (e.g. the ODRG which is outside IOSCO but comprises of IOSCO members).

Closing remarks

- The Chair thanked participants and encouraged them to provide any written responses within 1 month of the meeting.

End.