

**REPORT ON CROSS-BORDER ACTIVITIES OF
MARKET INTERMEDIARIES IN EMERGING MARKETS**



OICU-IOSCO

**EMERGING MARKETS COMMITTEE
OF THE
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Introduction

Cross border activity in securities trading has increased manifold in recent times. Due to advancements in technology, financial intermediaries now have virtually uninhibited access to customers independent of their geographical location. Similarly investors can invest in any international market through remotely located financial intermediaries with consummate ease.

The proliferation of cross border trading has given rise to newer challenges for regulatory oversight. Misconduct, such as fraud, market manipulation, insider trading and other illegal activities, aided by modern telecommunication, crosses jurisdictional boundaries frequently in a global market. Markets especially emerging markets are prone to such effects of cross border trading.

It is, therefore, necessary that emerging market regulators must be in a position to assess the nature of cross border transactions and should be equipped to take action against any possible misconduct. Cross-jurisdictional cooperation and information sharing mechanism is essential to ensure efficient and transparent markets while at the same time leading to reduction of potential systemic risk. Prevailing legislation and enforcement capacity of the regulator should be sufficient to ensure that cases of cross border misconduct can be effectively dealt with.

In October 2003, in the meeting of Emerging Market Committee (EMC), it was decided to give to the EMC Working Group on the Regulation of Market Intermediaries (WG 3) the mandate to assess cross border trading in emerging markets. In this regard it was decided that WG 3 would prepare a report encompassing, *inter alia*, the impact of cross border activities of financial intermediaries on the securities markets based on actual experiences in jurisdictions where such activities are allowed. Moreover, issues relating to cross border activities of intermediaries in markets where such activities are not allowed was to be explored. Such issues would encompass investor protection mechanisms especially in case of dispute between an investor and the brokerage firm not sharing

a common jurisdiction. Moreover the mandate was also to focus on the prescription of framework to enhance cooperation of regulatory authorities across the jurisdictions in order to facilitate cross border activities in a fair, transparent and efficient manner. The respondents included members of the EMC. A list of respondent authorities is presented at Annexure III.

Objectives of the Report

In this report the issue of cross border trading is tackled at three levels. Firstly, international experience especially that of developed jurisdictions in this regard is discussed. This discussion is based, *inter alia*, on findings of the Technical Committee report on “Regulation of Market Intermediaries in a Cross-Border Environment”. Moreover, this discussion centers around topics such as factors that determine regulatory jurisdiction of a local regulator on foreign intermediary. Also, what framework or mechanism is in place for information sharing with foreign regulators especially with regard to cooperation in inspection of foreign intermediaries. Further, regulatory approaches to foreign versus domestic intermediaries are examined and important issues regarding investor protection are discussed.

Secondly, the report aims to analyze the prevailing regulatory practices of cross border trading in the jurisdictions of EMC members. A comprehensive survey questionnaire (Annex II) was sent to EMC members. Based on the responses received, an assessment was done of the prevailing trends in cross border trading as well as regulatory culture in the jurisdictions of EMC members. Further potential for money laundering through cross border trading has been highlighted along with recommendations to curtail this activity.

Finally, certain preliminary recommendations for emerging markets in the area of regulation of cross border trading are being presented. Based on the experience of developed jurisdictions and existing regulatory capacity of emerging markets

regarding cross border trading, regulatory models that may be adopted by emerging markets are discussed. Moreover, information sharing principles along with the possibilities of joint investigation processes that will help emerging markets coordinate effective monitoring and enforcement are also elaborated.

Cross Border Activity and Global Experience

The increasing trend towards globalization has resulted in issuers and investors demanding global alternatives for raising and investing funds. This has been possible due to easier and faster access to information and trading platforms resulting from advancement in technology. Though cross border trading volumes are on the increase globally, the barriers and challenges are many including high costs, multi-channel trade processing, local dual or multi-regulatory regimes and legal procedures, etc.

A domestic intermediary today can access foreign markets directly by electronic means. In addition, unregulated “financial” Internet web sites provide investors with information and other services which were traditionally available through regulated entities only.

In February 2003 the Technical Committee issued a non-public report based on a survey analyzing cross border activities of market intermediaries in light of technological advancements.¹ The jurisdictions surveyed included many developed ones and some EMC jurisdictions. The Survey covered three general areas of interest: regulatory

¹ “Regulation of Market Intermediaries in a Cross-Border Environment”. Report of the Technical Committee of IOSCO, February 2003.

Table 1
Emerging Markets at a Glance

Country	No. of Regulated Markets	Nature of Markets	Nature of Instruments traded
Bulgaria	1	Securities Market	Shares, bonds, Compensatory Means of Payment and Investment Bills.
Columbia	3	Securities, Commodities and Public Debt Markets	Equities, Securitisation, Ordinary bonds, Local government bonds, Other bonds, Convertible bonds, Commercial papers, External government bonds, Certificates of deposit, Bankers' acceptances, and public debt
Egypt	1	Securities Market	Stocks, bonds and close ended mutual funds certificates.
Jordan	1	Securities Market	Shares and Bonds
Malaysia	2	Securities and Derivatives Markets	Securities, Derivative Products (futures, options, and commodity contracts)
Malta	1	Securities Market	Equities, Fixed Income Securities and Collective Investment
Morocco	1	Securities Market	Equities and Bonds
Nigeria	2	Securities and Commodities Market	Equities and Debts
Oman	1	Securities Market	Shares and Bonds
Pakistan	3	Securities Markets	Equities, Bonds and Derivatives
Philippines	1	Securities Market	Stocks, Warrants, Depository receipts and Bonds
Poland	2	Securities Market & OTC Market for Securities	Stocks, Bonds and Derivatives
Romania	2	Securities Market and Derivatives and Commodities Market	Shares, Bonds and Derivatives
South Africa	3	Securities, Derivatives and Bond Markets	Equities, Financial Derivatives, Agricultural Derivatives, Long Term Bonds. In certain cases the use of enhanced credit derivatives (such as credit default swaps)
Sri Lanka	1	Securities & Bonds Market	Equity and Debt
Chinese Taipei	3	Securities, Bonds and Derivatives Markets	Stocks, beneficiary certificates, warrants, ETF, Chinese Taipei depository receipts and bonds
Thailand	3	Securities and Derivatives Markets	Equities, Bonds and Derivatives
Turkey	3	Securities, Bonds, Derivatives	Stocks, Govt. bonds, Currency futures, Commodity futures
Uganda	2	Securities & Debt Markets	Shares, Bonds and Commercial Paper
Uruguay	2	Securities & Debt Markets (one electronic stock exchange)	Public and private bonds, CDs and foreign currency.
Vietnam	1	Securities Market	Stock, government bonds, municipal bonds, corporate bonds and investment units

jurisdiction; detection and regulatory cooperation; and customer protection, investor compensation and insolvency.

The findings of the report indicated that as far as regulatory jurisdiction is concerned, most jurisdictions included in the survey, require an intermediary, whether foreign or domestic, to be licensed/registered if it conducts securities activities in their territories. Jurisdictions consider a variety of factors to determine if an intermediary conducts securities activities in their territories. Many jurisdictions require licensing/registration of intermediaries that are not physically present in their territories but are engaged in soliciting securities business remotely.

In the area of information sharing, joint investigations and regulatory cooperation, the report results indicated that the majority of the respondents are contracting parties to agreements, generally in the form of memoranda of understanding (MOU), that permit information sharing and cooperation among the regulatory authorities that are parties to the agreements. Most of these agreements, however, do not address the issue of cross border inspections. As far as information sharing is concerned all respondents had the authority to share information with a foreign regulator related to an intermediary's compliance with the securities laws and regulations of the foreign jurisdiction. Most jurisdictions will share information only if some formal or informal agreement or understanding is in place that sets forth the terms under which the information is to be shared and restrictions on further disclosure are in place. Some jurisdictions also demand some sort of reciprocity before they disclose any information to foreign authorities.

The report of the Technical Committee indicates that most of the developed jurisdictions extend the domestic protections to the foreign investors. However, these jurisdictions address the failure of market intermediaries through different means. Several jurisdictions maintain funds that compensate investors, subject to maximum amounts. If an intermediary fails and has lost or stolen customer funds and securities, the compensation fund may be used to seek recovery of any monies

to the claimants. Both domestic and foreign investors may seek compensation from these funds.

Cross Border Activity and Emerging Markets

It is noted from the survey responses that cross border activity is minimal in the emerging markets. Apart from a handful of jurisdictions there is neither any cross border activity nor any regulatory framework in place to monitor such activities. South Africa is the only jurisdiction where foreign market intermediaries have been registered to conduct their business. Before considering any regulatory model that may be followed by the emerging markets in order to effectively conduct and monitor cross border trading, we first need to look at the potential impediments to cross border trading within emerging markets.

Major Impediments to Cross Border Trading

Unfavorable macroeconomic and political environment has since long been pointed out as one of the major obstacles in trading in the emerging markets in general. This effect is even more pronounced when trading is to be conducted in financial instruments that are in fact more vulnerable to default risk.

Strict foreign exchange controls repress capital movements across shores. Although, the survey results show that emerging markets are increasingly gearing towards a liberal foreign exchange regime, but there are still many jurisdictions where restrictions on foreign portfolio investments are in place. For example Bulgaria, Uganda and Thailand have controls over capital movements and South Africa has certain restriction with regards to remittance of dividend income to foreigners.

Moreover, the emerging markets are still in the process of instilling awareness amongst their people regarding effectiveness of capital markets for mobilization of funds. As such there is lack of cultural exposure to share ownership. Besides, not enough savings are generated to be directed towards securities markets. This can be

evidenced from low level of net investments in securities and bonds as reported by survey respondents.

At the stock exchange level many exchanges in emerging markets lack sophistication, compared with the exchanges in more developed jurisdictions. The markets are narrow and not very liquid and thus are vulnerable to manipulation. At investor level there is lack of confidence on the market due to inadequate disclosure standards. Transparency, fairness, protection to small investors from losses accruing due to market abuses such as insider trading, price rigging, market manipulation and deliberate dissemination false and misleading information are all areas of concern for potential investors.

Lack of automation and development in field of communication and information technology is also inhibiting growth of cross border trading in emerging markets. As mentioned before, internet or web based trading is mainly responsible for cross border trades in developed jurisdictions. Technology is yet to be embraced at mass level in emerging markets, therefore, this means of trading is yet to be utilized to the fullest.

In order to develop cross border trading, the above stated bottlenecks to securities trading need to be addressed and ultimately removed. Good corporate governance, enactment of disclosure and documentation standards in line with international best practices and better risk management systems at bourses can help boost investor confidence in securities markets. Liberalization of foreign exchange controls, minimizing restrictions on foreign portfolio investment, the change-over to electronic trading (already accomplished on the several exchanges) and the privatization of state companies, are developments that may redress liquidity problem and add depth to emerging capital markets. Development of a central counter party or a consolidated clearing house as present in European Union can also enhance the volume of cross border trading significantly; however, such measures should be phased in gradually.

Cross Border Activity and Regulatory Issues

In developed jurisdictions, where cross border trading is already taking place, it is clear that there is no single standard regulatory model for monitoring cross border activity. Jurisdictions prescribe their own set of rules on the basis of sophistication of their markets and market participants as well as regulatory culture and risk perception. The emerging markets should take a similar approach. Every jurisdiction should consider its own corporate environment and extent of investor education and protection measures available before opening its shores to foreign intermediaries.

Regulatory Jurisdiction

As mentioned above, most of the developed jurisdictions require foreign intermediaries, whether remote or physically located in their jurisdictions, to be licensed or registered locally. Emerging markets should also follow this practice. It is very important for emerging markets to exercise maximum regulatory authority over the foreign intermediaries to minimize the risk of fraud and market manipulation because, given their structure and stage of development of disclosure standards, the emerging markets are highly susceptible to such practices.

However, differentiation between intermediaries that provide financial services through “pull” mechanism, where investor initiates the business transactions and seeks the intermediary himself as opposed to “push” approach that involves active solicitation of investors, may be considered by jurisdictions for licensing purposes. In Pakistan, it was discovered that not foreign intermediaries themselves but their customers were engaged in soliciting and doing business on behalf of other customers. Therefore, licensing requirements should include that an intermediary would obtain an undertaking from its customers that they will only do business for their own sake and not on behalf of others.

In some developed jurisdictions, like the United States of America, foreign intermediaries need not get registered if they target only institutional clients. However, it may not be expedient to do so in emerging markets, given the extent of market development, lack of proper disclosure standards and absence of adequate legal frameworks. It is advisable that emerging markets should require some sort of licensing arrangement with every type of foreign market intermediary.

It will be helpful at this juncture to discuss some prevailing models for registration/licensing of market intermediaries that are followed by the developed jurisdictions. In this regard licensing requirements of two securities regulators, namely the Australian Securities and Investment Commission (ASIC), the apex regulator for enforcing and regulating company and financial services laws in Australia, and the Ontario Securities Commission (OSC) that administers and enforces securities laws in the province of Ontario (Canada), have been briefly discussed below.

Under the Corporations Act 2001, market intermediaries that provide one or more of the services below need to obtain Australian Financial Services License (AFSL). The services are

- providing financial product advice
- dealing in a financial product
- making a market for a financial product
- operating a registered scheme
- providing a custodial or depository service.

An intermediary applying for AFSL is expected to provide details regarding its business description e.g. type of client groups (retail or wholesale), organizational structure e.g. names and qualifications of key management personnel and processes that will be administered by them, compliance arrangement, adequacy of resources,

dispute resolution mechanism, risk management process etc². AFSL requirements, especially with respect to exemptions available to foreign intermediaries, have been further discussed in the Technical Committee report on regulation of cross border intermediaries³.

Market intermediaries (or “securities dealers” as they are known in Ontario) are regulated under the Ontario Securities Act (OSA). Under the regulation to the OSA there is a limited registration category for foreign dealers who meet the requirements set forth by OSC. A foreign dealer that is registered as an international dealer can undertake following activities:

- carrying on in Ontario those activities, other than sales of securities, that are reasonably necessary to facilitate a distribution of securities that are offered primarily abroad;
- trading with a designated institution in debt securities in the course of a distribution, where the debt securities are offered primarily abroad and otherwise than by means of a prospectus prepared and filed in accordance with the OSA;
- trading with a designated institution in debt securities, except in the course of the distribution by which they were issued;
- trading with a designated institution in foreign securities, except in the course of a distribution by means of a prospectus prepared and filed in accordance with the OSA; and
- trading with a broker, foreign dealer or investment dealer in any securities,

The differences between registration requirements for international dealer from that of local dealer, *inter alia*, are that the international dealer needs to provide satisfactory evidence that it undertakes similar business in jurisdiction other than Canada and provide evidence of registration with the regulator(s) of that jurisdiction. However, he is exempt from membership of Investment Dealers Association (IDA) which is mandatory for local investment dealers.

² Complete Sample AFSL Application Form is available at ASIC official website <http://www.asic.gov.au>

³ “Regulation of Remote Cross Border Intermediaries”. Report of the Technical Committee of IOSCO, February 2004.

Regulatory Treatment of Foreign Intermediaries

As discussed above, a foreign intermediary should be allowed to conduct its business in a jurisdiction once it obtains a license or gets registered with the local regulatory authority. Having done that, to what extent should it be subjected to legal obligations and requirements of the local regulator? The global experience is diverse in this regard, however, in most jurisdictions the foreign intermediary is subjected to the same regulatory requirements as applicable to local intermediary.

However, there are exceptions in some jurisdictions where foreign intermediary is not subjected to local laws. Under this model if the local jurisdiction deems the prevailing regulatory regime of the foreign intermediary's jurisdiction is similar to that of its own then it may waive certain or all of its own legal requirements for the intermediary. Similarly jurisdictions can enter into bilateral or multilateral mutual recognition arrangements where the regulators of the reciprocating jurisdictions will not require the intermediary from the other jurisdiction to comply with its local laws as long as it is being regulated in its originating jurisdiction.

Presently, whereas it would be preferable for emerging markets to require almost complete compliance with its local rules and regulations, gradual opportunities of mutual and unilateral recognition arrangements should also be explored. Jurisdictions can use the IOSCO platform to inquire and get maximum information regarding regulatory infrastructure and legal frameworks pertaining to investor protection, market integrity and reduction of systemic risk, in other jurisdictions prior to entering such arrangements with them.

Investor Protection and Failure of Market Intermediaries

Jurisdictions should strive to provide foreign investors with the same protection as domestic investors. Most of the jurisdictions have established investor protection funds to compensate investors in case of a default or failure of market

intermediaries. Investors both local and foreign should be compensated from this fund up to prescribed maximum limits.

Cross Border Trading and Money Laundering

In addition to issues related to regulatory jurisdiction and investor protection in a cross border environment there is potential for money laundering through this channel. Additional questions to determine legal framework for prevention of money laundering were circulated to the EMC members and from the responses received it appeared that with the exception of one jurisdiction all the jurisdictions have some kind of legal framework to counter money laundering. The character of legal provisions varies from full fledged Acts on money laundering to specific regulations as well as guidelines and recommendatory manuals. Largely in every jurisdiction the emphasis of the regulator is on transparent disclosure and appropriate record keeping of financial transactions, sound internal control systems and reporting procedures and proper client identification.

It is pertinent that before considering opening their capital markets for foreign intermediaries, the emerging market regulators need to be in a position to monitor and prevent laundering of dirty money that might seep in the financial system of the country. In this regard, every regulator can self assess its systems and upgrade it if necessary to combat money laundering operation in light of the 40 Recommendations issued by Financial Action Task Force (FATF)⁴ on money laundering. The FATF Recommendations No. 7 and No. 8 particularly address the area of money laundering in a cross border environment⁵. In light of the said recommendations the domestic regulations should be framed in a manner that market intermediaries, in relation to cross-border trading and other similar relationships, in addition to performing normal due diligence measures, should:

⁴ The Financial Action Task Force (FATF) is an inter-governmental body whose purpose is the development and promotion of policies, both at national and international levels, to combat money laundering and terrorist financing. The Task Force is therefore a "policy-making body" which works to generate the necessary political will to bring about national legislative and regulatory reforms in these areas

⁵ Full Text of the 40 Recommendations is available at Organization of Economic Cooperation and Development (OECD) website at <http://www1.oecd.org/fatf/>

- Gather sufficient information about a respondent intermediary and/or client to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of such intermediary or client and the quality of supervision, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action.
- Assess the anti-money laundering and terrorist financing controls being exercised in the jurisdiction where he is undertaking business.
- Document the respective business activity of each participant (e.g. corresponding intermediary or client).
- With respect to payments made through the banking channel, be satisfied that the respondent bank has verified the identity of and performed on-going due diligence on the customers having direct access to accounts of the correspondent and that it is able to provide relevant customer identification data upon request to the correspondent bank.

Cross Border Cooperation, Information Sharing etc.

The survey results show that most of the jurisdictions have entered into some bilateral MOU with other jurisdictions. Out of the respondents surveyed, eleven jurisdictions have entered into bilateral MOUs. The number of jurisdictions party to such bilateral agreements range from 41 in the case of South Africa to a single jurisdiction in case of Oman. With respect to multilateral agreements, South Africa has signed two multilateral MOUs including the IOSCO MOU, Sri Lanka and Turkey are also signatories to the IOSCO MOU. Romania plans to apply to become a signatory to the IOSCO MOU once legislation for the enforcement of the Capital Market Law is completed and adopted. The efficacy of such information sharing amongst the emerging markets is in the process of being assessed.

In order to effectively monitor the activities of cross border intermediaries and to ensure cross jurisdictional cooperation, it is pertinent for emerging markets to enter into bilateral and multi-lateral memoranda of understanding with other jurisdictions for the purpose of information sharing. IOSCO has suggested that each participant of such bilateral or multilateral arrangement should seek to abide by the IOSCO Principles for information sharing. IOSCO resolutions and principles

regarding information sharing should be adopted by all authorities charged with the administration and enforcement of securities and futures laws and, to be effective, IOSCO Principles must not only be adopted as a matter of law, but also implemented in practice in a manner that promotes and facilitates cooperation and information-sharing among relevant authorities.⁶

IOSCO recommendations in this regard are based on three elements of information sharing (i) requests for assistance (ii) confidentiality concerns and (iii) voluntary cooperation. Requests for information should be made in a pre-agreed standardized format and not include any requests for prohibited information. The request should be responded in a timely manner. Moreover, confidentiality concerns of both requesting Authority as well as the Authority providing the information should be sufficiently safeguarded except where prohibited by law. Furthermore, the authorities should endeavor to provide as much information as possible on voluntary basis and in case of exceptional costs of the process the authorities should seek to enter into efficient cost sharing arrangements. In addition to mere information sharing arrangements the emerging markets may explore the possibility of joint investigations of suspected misconduct. A joint investigation refers to an effort by multiple regulators to gather information together regarding suspected cross border misconduct for use in their respective investigations and/or proceedings. Unlike traditional information sharing, in a joint investigation, regulators consult each other frequently with regard to investigative progress. A joint investigation may be a single investigation by multiple regulators. A joint investigation also may be comprised of separate yet coordinated investigations of the same underlying set of facts.⁷ Based on the findings of the joint investigations actions such as court injunctions to prevent the intermediary from conducting further business or freezing of assets of the intermediary in either or all

⁶ “Recommended Practices for Information Sharing and Cooperation” Report of the Technical Committee of the International Organization of Securities Commissions, October 2002.

⁷ “Joint Cross-Border Investigations and Related Proceedings” Report of the Technical Committee of the International Organization of Securities Commissions, June 2001.

Table 2

MARKET SURVEY

**FMI
LMIs**

**Foreign Market Intermediaries
Local Market Intermediaries**

		No. of FMIs operating	No. of FMIs registered	No. of FMIs physically present	No. of cross border listings	No. of LMIs in Foreign Jurisdictions
1.	Bulgaria	0	0	0	0	0
2.	Colombia	0	0	0	0	0
3.	Egypt	Not specified	Not specified	Not specified	0	0
4.	Jordan	0	0	0	1	0
5.	Malaysia	2	2	2	Not specified	1
6.	Malta	0	0	0	318	0
7.	Morocco	0	0	0	0	1
8.	Nigeria	0	0	0	0	0
9.	Oman	0	0	0	2	0
10.	Pakistan	0	0	0	0	0
11.	Philippines	36	36	36	0	0
12.	Poland	0	0	0	1	Info not available
13.	Romania	0	0	0	0	0
14.	South Africa	81	81	0	23	Info not available
15.	Sri Lanka	0	0	0	0	0
16.	Chinese Taipei	19	19	19	6	15
17.	Thailand	0	0	0	0	0
18.	Turkey	0	0	0	0	5
19.	Uganda	0	0	0	2	0
20.	Uruguay	9	9	9	3	Info not available
21.	Vietnam	0	0	0	0	0

the jurisdictions involved may be taken, provided such actions are provided in the MOU in this respect.

Conclusion and Recommendations

The findings of the survey reflect that cross border trading is negligible in the twenty-one surveyed jurisdictions and that the number of cross border foreign intermediaries operating in these emerging markets is minimal. Of the responses received only South Africa, Philippines, Chinese Taipei and Uruguay have foreign market intermediaries operating in their jurisdictions. However, the later two require the intermediary to be physically present in their jurisdictions. All the jurisdictions require licensing in case foreign market intermediaries want to operate in their jurisdictions. Morocco, Malaysia and Chinese Taipei are the only jurisdictions where local market intermediaries are operating in foreign jurisdictions (see Table 2).

The survey results point towards an increasingly liberal approach towards foreign exchange movement. Of the responses received, only Bulgaria, Sri Lanka, Thailand and Uganda have controls over inward direct investment. As far as controls on outward flow of investment related payments such as dividend remittances are concerned, only South Africa, Sri Lanka and Uganda have such restrictions. Moreover such controls are also exercised in Malta in cases where the non-residents are from countries that are not part of the European Union and European Economic Association.

In the area of investor protection, all the survey respondents view foreign investors as equal to local investors. According to the responses received, the existing regulatory capacity to assess cross border trading and to take action is low in Egypt, Oman, Uganda, Uruguay and Vietnam (see Table 3). Thailand highlighted two points in the enforcement of actions against cross border violations. If persons or sources of information related to the violations are outside its jurisdiction,

TABLE 3

REGULATORY INFRASTRUCTURE AND JURISDICTION

DI Direct investment
 Forex Foreign exchange
 CBT Cross Border Transactions
 NR No response received
 NA Not applicable

	Controls on inward DI	Controls on Liquidation of DI	Controls on invest. related payments	Forex accounts permitted domestically by non-residents	Licensing requirement for FMI	Laws/rules in place to regulate FMIs	Laws/rules in place to protect investors	FMI subject to regulatory oversight	Foreign & local investors treated equally	Regulatory capacity to assess nature of CBT & ability to take action
Bulgaria	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Colombia	No	No	No	Yes	Yes	No	NA	No	Yes	Yes
Egypt	No	No	No	Yes	Yes	Yes	Yes	NR	Yes	No
Jordan	No	No	No	Yes	Yes	NR	NR	NR	Yes	NR
Malaysia	NR	NR	NR	NR	Yes	Yes	Yes	Yes	Yes	Yes
Malta	Yes*	Yes*	NR	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Morocco	No	No	No	Yes	Yes	NR	Yes	Yes	Yes	Yes
Nigeria	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Oman	No	No	No	Yes	Yes	Yes	Yes	No	Yes	No
Pakistan	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	No
Philippines	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Poland	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Romania	No	No	No	Yes	Yes	No	No	No	Yes	No
Sri Lanka	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
South Africa	No	No	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
Chinese Taipei	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Thailand	Yes	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Turkey	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	No
Uganda	Yes	Yes	Yes	Yes	Yes	No	Yes	NR	Yes	No
Uruguay	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	No
Vietnam	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	No

* Only where non-residents are non-EU or non-EEA countries.

disciplinary actions would require the cooperation between the involved jurisdictions while the level of cooperation may vary from jurisdiction to jurisdiction. The cross border activities are negligible in the surveyed emerging markets and the effectiveness of their regulatory capacity with regard to cross border activities is limited.

As mentioned earlier, international regulatory cooperation and information sharing mechanisms are prerequisites for ensuring smooth cross border operations. So far there are 26 signatories to the IOSCO MOU out of which seven are members of EMC. The survey results show that with regards to international regulatory cooperation and detection of fraudulent activities, most of the surveyed jurisdictions have entered into some bilateral MOUs with other jurisdictions. 15 jurisdictions, out of the twenty-one respondents, have entered into bilateral MOUs. These bilateral agreements range in number from 41 in the case of South Africa to a single one in the case of Oman and Pakistan. With regards to multilateral agreements, South Africa has signed two multilateral MOUs including the IOSCO. Sri Lanka and Turkey are also signatories to the IOSCO MOU. Romania plans to apply to become a signatory of the IOSCO MOU once the legislation for the enforcement of the Capital Market Law is completed and adopted. Malta also plans to sign the IOSCO MOU in the near future.

The securities market regulators in emerging markets, in order to effectively regulate cross-border activities, need to formulate efficient and consistent legal frameworks for the regulation, trading, and processing of cross border trades. This can be achieved through harmonization of listing regulations of the stock exchanges. Further, implementation of uniform accounting and corporate governance standards as well as the enactment of disclosure and documentation standards in line with international best practices will undoubtedly facilitate cross border trading in emerging markets. In addition, vigilant surveillance and monitoring needs to be conducted to constantly supervise this activity.

EMC regulators may consider enhancing and upgrading their current institutional capacities to achieve these ends. Equally important is international co-operation and coordination on information sharing since the regulators share many of the same regulatory goals related to the regulation of financial intermediaries and combating cross-border crimes involving securities markets.

The modus operandi may be different since some jurisdictions implement these goals through licensing/registration, even if an intermediary has no physical presence in their territories, while others provide full or partial exemptions from licensing/registration and other local requirements for foreign intermediaries.

The IOSCO Principles (P 21-24) on market intermediaries do not directly address the regulation of such cross border trading activities. They merely provide for minimum entry standards for market intermediaries and set out key elements for on-going supervision of market intermediaries. Thus the underlying assumption is that the domestic regulators exercise full jurisdiction and impose their entire regulatory regime on entities doing business in their respective countries.

No matter what regulatory model emerging markets plan to adopt to efficiently regulate and at the same time enhance cross border activity it should centre around the three main objectives of investor protection, fair, transparent and efficient capital markets, and mitigation of systemic risk.

While framing or updating regulations, emerging markets regulators should ensure that the core principles of securities regulation should not be compromised. Moreover, due to the peculiar nature of cross border trading and activities of remote intermediaries any regulation made should be consistent and in consonance with those implemented in other jurisdictions, in order to ensure efficiency of such transactions. Finally, the legal framework designed should have inherent flexibility to cater for constantly evolving dynamics of cross border trading.

ANNEXURE I

IOSCO EMC Working Group on the Regulation of Market Intermediaries (WG3)

Methodology/Action Plan

Mandate of WG3

The mandate of WG3 on “cross-border activities of securities firms in emerging markets” was adopted in the first meeting of the IOSCO Emerging Markets Committee held on 14 October 2003 in Seoul, Korea.

The WG3’s mandate has been derived on the basis that markets, particularly emerging markets, are prone to effects of cross-border activities. It specifically addresses operational and regulatory issues impacting the processing of securities transactions across borders in emerging markets. The mandate of WG3 broadly covered the following areas of interest relating to cross-border activities in emerging markets:

- (a) Cross-border breaches of securities law can occur through the use of international communication media including the internet;
- (b) Fraud, market manipulation, insider trading and other illegal conduct that crosses jurisdictional boundaries can and does occur more and more frequently in a global market aided by modern telecommunications;
- (c) Legislation and enforcement powers of the regulator should be sufficient to ensure that it can be effective in cases of cross-border misconduct;
- (d) Cross-jurisdictional cooperation and information sharing is essential to ensure domestic stability and reduction of systemic risk;
- (e) Emerging Market Regulators must be in a position to assess the nature of cross-border transaction and equipped to take action;
- (f) Cooperative mechanisms should be put in place at bilateral and international level to facilitate the detection and deterrence of cross-border misconduct and to assist in the discharge of licensing and supervisory responsibilities;
- (g) International standards for raising cross-border capital; and
- (h) How do regulators attract and encourage cross border investment without reducing local disclosure and regulatory standards to the lowest international common denominator?

Meeting in Madrid, Spain

The following members of WG3, comprising the Small Working Group (SWG), met on 3 February 2004 in Madrid, Spain:

Mr. Tariq Hassan (Chair)
(Chairman, Securities and Exchange Commission of Pakistan (SECP, Pakistan))

Mr. GN Bajpai
(Chairman Securities and Exchange Board of India (SEBI, India))

Mr. Bassam K. Saket
(Chairman Jordan Securities Commission, Jordan)

Mr. Ranjit Ajit Singh
(Director-Strategy, Research & Corporate Affairs Division, Securities Commission, Malaysia)

Mr. Jeff Van Rooyen
(Executive Officer, Financial Services Board, South Africa)

Mr. Ahmet Kerem
(Capital Markets Board, Turkey)

Mr. O.W. Akpan as observer
(Securities and Exchange Commission, Nigeria)

The Chairman of WG3 apprised members about the methodology/action plan for working of WG3 (details of which are provided below).

Methodology

1. (a) Review and assessment of the Technical Committee report on the Regulation of Market Intermediaries in a Cross-border Environment to identify cross-border issues regarding EMCs.
(https://www.iosco.org/documents/pdf/cross_border_activities.pdf)

Responsibility: Chairman WG3 / SWG

Timing: By 15 April 2004

2. (a) Identification and review of other relevant IOSCO documents on cross-border activities of market intermediaries

-Resolution of the Presidents Committee on IOSCO Endorsement of Disclosure Standards to Facilitate Cross-Border Offerings and Listings by Multinational Issuers. September 1998
(<http://www.iosco.org/resolutions/pdf/IOSCORES17.pdf>)

-Resolution Concerning Cross-Border Transactions. July 1995
(<http://www.iosco.org/resolutions/pdf/IOSCORES12.pdf>)

*-Guidance on Information Sharing, Report by the Technical Committee. March 1998
(<http://www.iosco.org/pubdocs/pdf/IOSCOPD86.pdf>)*

*-Securities Activity on the Internet, Report by the Technical Committee. September 1998
(<http://www.iosco.org/pubdocs/pdf/IOSCOPD83.pdf>)*

*-International Disclosure Standards for Cross-Border Offerings and Initial Listings by Foreign Issuers, Report of IOSCO September 1998
(<http://www.iosco.org/pubdocs/pdf/IOSCOPD81.pdf>)*

*-Report on Issues in the Regulation of Cross-Border Proprietary Screen-Based Trading Systems, Report of the Technical Committee. October 1994
(not available online)*

*-Measures Available on a Cross-Border Basis to Protect Interests and Assets of Defrauded Investors, Report of the Technical Committee. July 1996
(not available online)*

(b) Scope of reference to be outlined for further research

Responsibility: Chairman WG3 / SWG

Timing: By 15 April 2004

3. (a) External Research to be conducted through a comprehensive survey questionnaire, finalized in consultation with SWG, to be sent to all EMC members and self-regulatory organizations. The survey questionnaire will comprise of the following three areas:
- Market Survey
 - Regulatory Infrastructure & Jurisdiction
 - International Regulatory Cooperation & Enforcement

(b) Desk research to be carried out to collect other research material such as relevant articles, speeches on the subject.

Responsibility: Chairman WG3 / SWG

Timing: By 15 April 2004

4. (a) Draft report to be prepared on cross-border activities of market intermediaries in EMC based on the assessment of the Technical Committee paper, other IOSCO documentation and external research.

(b) Distribution of draft report to all EMC WG3 members for comments.

Responsibility: Chairman WG3 / SWG

Timing: By 10 May 2004

5. Discussion on the draft report

Responsibility: WG3 **Timing: During Annual Conference in May 2004**

6. Finalization of report based on the comments received and discussion held.

Responsibility: Chairman WG3 / WG3

Timing: By 31 August 2004

7. Presentation of report to the EMC Advisory Board for consideration and onward submission to EMC for approval.

Responsibility: Chairman WG3

Timing: By 15 October 2004

8. Potential regional seminar to be conducted by SECP

Responsibility: Chairman WG3

Timing: By 15 November 2004

ANNEXURE II

SURVEY QUESTIONNAIRE ON CROSS-BORDER ACTIVITIES OF MARKET INTERMEDIARIES IN EMERGING MARKETS

I. Market Survey

Inward bound

1. *What is the number of regulated markets (stock, commodities, derivatives etc.) in your jurisdiction?*

Bulgaria

One regulated market – Bulgarian Stock Exchange – Sofia Corp.

Colombia

There are 3 main markets where intermediation takes place: Securities, Commodities and Public Debt

Egypt

One regulated market.

Jordan

One regulated market – Amman Stock Exchange, an SRO

Malaysia

(i) Securities and (ii) Derivatives.

Malta

One

Morocco

One

Nigeria

Two Nigerian Stock Exchange, and Abuja Commodities and Securities Exchange

Oman

One Securities Market

Pakistan

There are 3 stock exchanges in Pakistan located in Lahore, Karachi and Islamabad respectively and one Commodity Exchange namely the National Commodity Exchange

Limited (NCEL). The National Commodity Exchange will deal in future contracts for commodities and will soon start operation.

Philippines

One (1). The Philippine Stock Exchange, Inc. (PSE)

Poland

Two regulated markets: Warsaw Stock Exchange and MTS-CeTO (over-the-counter market).

Romania

Romanian National Securities Commission currently supervises two regulated markets: Bucharest Stock Exchange (BVB) and Sibiu Monetary-Financial and Commodities Exchange (BMFMS).

The Commission has also under its supervision RASDAQ Electronic Exchange (BER), a non regulated market; most of the publicly held companies listed on this market have resulted from the Mass Privatization Program.

South Africa

There are three regulated markets, namely equities (JSE Securities Exchange South Africa), derivatives (JSE) and bonds (Bond Exchange of South Africa).

Sri Lanka

One Regulated Market – The Colombo Stock Exchange

Chinese Taipei

There are two regulated markets for securities trading (including both equities and bonds). One is Taiwan Stock Exchange Corporation (TSEC), and the other is GreTai Securities Market (GTSM). In addition, there's one futures market for derivatives trading.

Thailand

Regulated securities markets in Thailand consist of a market for equities (mainly exchange traded) and a market for bonds (mainly OTC traded). Both markets are under supervision of the Securities and Exchange Commission (SEC).

Another regulated market is the futures market for agricultural commodities which is under supervision of the Agricultural Futures Trading Commission (AFTC).

The establishment of the financial derivatives exchange has been underway since the governing law, the Derivatives Act BE 2546, came into force in January 2004. In the meantime, financial derivatives can be traded over the counter.

Turkey

There are three regulated markets in Turkey: İstanbul Stock Exchange (ISE, www.ise.org) İstanbul Gold Exchange (IGE, www.iab.gov.tr) and İzmir Futures and Options Exchange (FOE; www.vob.org.tr).

Uganda

Two (2)

Uruguay

There are two regulated markets in our jurisdiction.

Vietnam

The only one regulated securities market in Vietnam is Hochiminh City Securities Trading Center.

2. *Specify the nature of regulated markets.*

Bulgaria

Official market – Market of shares segment A, Market of shares segment B, Market of shares segment C. Market of Debt Securities Segment ‘Government securities’, Market of Debt Securities Segment ‘Municipal Bonds’, Market of Debt Securities Segment ‘Corporate Bonds’.

Colombia

The public securities market is connected with the issuing, subscribing, trading and intermediation of documents issued in series or in mass. Issue and subscription are subjects closely linked to the notion of "public offer". An offer is deemed to be public when it relates to securities which are registered in the National Register of Securities and Intermediaries (NRSI) and is addressed to unspecified persons or to a specific number of persons who total more than one hundred, irrespective of whether they are Colombian nationals or foreigners. To make a public offer, the offering party should draw up a prospectus and submit this to the Superintendency of Securities for approval. This prospectus should provide full information about the issuer and detail the features of the offer, and should also give financial information about the offering party. The information contained in the prospectus should also be certified by the issuer and its auditors, stating that the information is correct and complete and that no attempt is being made to divert the decision of investors.

It should be pointed out that under regulations which are currently in force in Colombia, issues are subject to Colombian legislation and jurisdiction, and that any foreigner who decides to acquire securities in Colombia is also subject to that legislation.

The market is regulated by the Superintendency of Securities (Supervalores), itself answerable to the Ministry of Finance. Supervalores oversees rules pertaining to the exchanges, notably the regulation of market intermediaries, brokers' fees and the financial disclosures of listed companies. The Superintendency of Banks assumes some of the functions of Supervalores in relation to the bank and pension fund trading.

Supervalores has promulgated regulations aimed at ensuring transparency and honesty in the marketplace. These rules address registration of shares, processing of orders and the broker-client relationship.

Securities Market: There were three major exchanges (Bogota, Medellin and Occidente) that merged in 2001 and formed a one single exchange called Bolsa de Valores de Colombia. This exchange handles both equity and fixed income trading. Equity trading amounts roundly to the 3% of the market and is executed through one integrated platform

and only securities firms have access for trading.

The stock exchange administers a Centralized Operation System (MEC) which is an electronic transactional system for the trading of fixed income securities. Financial institutions, securities firms, public entities and some real sector companies are members and can trade in this system. This system was created to organise the OTC market to seek efficiency and transparency. However, there are still transactions that are directly arranged by the participants, most of which must be registered in an information system.

Public Debt Market: The Ministry of Finance and Public Credit designates annually a group of placement agents for treasury bonds: those commercial banks, financial corporations and securities firms are referred to as “market-makers”, entities that should be Colombian legal entities and are subject to supervision by the Colombian authorities. Only the market makers that have successfully bid in the primary auction have access to the additional placement known as the second round. A market-maker’s privileges and obligations are determined by their efficient distribution of government debt securities.

The Central Bank (CB) has played a crucial role in developing the government bond market. Since 1999 CB has used treasury securities for monetary policy and developed a robust and secure information infrastructure to auction. It has executed temporary monetary expansion with TES B (treasury securities) since 1996, permanent monetary expansion since 1998 and temporary and permanent monetary contraction since 1999. CB is also responsible for the auction, administration, registry, transaction and settlement of TES B. At present CB deals only in government bonds in its open market operations. For temporary operations, the Central Bank accepts as guarantee TES B and bonds issued by FOGAFIN (the deposit insurance agency) and FINAGRO (a support agency for coffee growers). For permanent operations, CB prefers to buy TES B. These purchases have helped consolidate the bond market and allowed the formation of a yield curve, which serves as a reference for new private sector issues. It is worth noting that the auction rate of the Títulos de Tesorería (TES) have been always higher than the rate for private securities.

Commodities market: There are currently two commodities exchanges in Colombia – a 25-year old exchange in Bogota (BNA), offering a broad range of products and a 3-year old exchange in Cali (BACSA), offering only the registration of cash deals done off exchange.

The BNA offers spot transactions in commodities. These transactions could take one of two forms – a spot transaction traded openly at the facility, or a spot transaction traded away from the facility but simply registered at the exchange after the fact. The exchange’s products can be divided into two broad groups – physical transactions (spot and forwards) and financing transactions (repurchase agreements and other instruments that allow a producer to borrow money from investors).

Derivatives market: There is not an exchange for futures and derivatives but the government plans to organize one in following years. However some derivatives have been developed by the stock exchange and the commodities exchange.

Egypt
Stock Exchange

Malaysia

Pursuant to the **Securities Industry Act 1983 (SIA)** and the **Futures Industry Act 1993 (FIA)**, all market intermediaries are required to be licensed in order to carry on a business in the securities and futures markets respectively.

Essentially, an intermediary shall not carry on the business of dealing in securities or hold itself out as carrying on such a business, or act as a fund manager or hold itself out as a fund manager, in Malaysia, unless that intermediary is licensed to do so under the **SIA**. In this regard, the main factor of determination is whether an intermediary “carries on the business” or holds itself out as carrying on such a business. As long as that carrying on of business is undertaken in Malaysia, the intermediary will need to be licensed and will be subject to the legal requirements of the securities laws by the SC.

There is no difference between the exercise of jurisdiction with respect to cross-border transactions as opposed to purely domestic transactions. As long as the intermediary carries on the business in Malaysia for which it needs to be licensed under the **SIA**, it will be subject to the legal requirements of the securities laws. This is the case even if the investor is located in an access jurisdiction where the local intermediary does not have a physical presence.

Further, even if the local intermediary deals in securities listed on a foreign exchange, in addition to being subjected to the legal framework of that foreign jurisdiction, its activities will still be subject to the Malaysian securities laws. This is because “securities” is defined in the **SCA** as covering debentures, stocks or bonds issued or proposed to be issued by any government; shares in or debentures of, a body corporate or an unincorporated body; or unit trusts or prescribed investments; and includes any right, option or interest in respect thereof.

Malta

The Malta Stock Exchange licensed as a Recognized Investment Exchange operating a fully regulated, transparent and orderly market.

Morocco

Morocco Stock Exchange.

Nigeria

The two Exchanges are Self-Regulatory Organisations. (SROs). The Abuja Commodities and Securities Exchange will begin operations in the near future, all necessary infrastructure are in place

Oman

Securities Market

Pakistan

All the three stock exchanges are mutualized organized membership exchanges and operate as Self Regulatory Organizations (SRO's). All the three stock exchanges have electronic trading system that provide trading platform for shares and bonds in the ready

and future board. The National Commodity Exchange is a demutualised exchange limited by shares.

Philippines

The Philippine Stock Exchange, Inc. (PSE) is a stock corporation that provides and ensures a fair, efficient, transparent and orderly market for the buying and selling of securities.

PSE's Vision:

- a) A peer among the Premier Stock Exchange within the region;
- b) One of the most efficient, orderly, fair transparent center for raising capital and trading securities that will be beneficial to all participants in the market place;
- c) A strong foundation for the growth of the Philippine Economy by being in the forefront of savings mobilization and investments through existing and innovative instruments.

The PSE is committed to:

- a) Maximize value for shareholders with optimal service to all stakeholders;
- b) Practice good governance and promote this in listed companies and trading participants to sustain investors' confidence;
- c) Develop world class trading and settlement infrastructure and information system;
- d) Develop new products and services;
- e) Promote the professional and personal growth of its personnel to better serve the investors, the listed companies, and the Trading Participants.

Poland

Warsaw Stock Exchange (WSE) - main stock exchange in Poland.

MTS-CeTO (Central Table of Offers was renamed MTS-CeTO in 2004) - regulated over-the-counter market.

Romania

BVB is a public interest institution (a non-profit one, currently in process of transformation in a joint-stock company).

BMFMS was established in 1994 as a joint stock company and it was authorized as a regulated market on 09.02.2004.

BER is a private joint stock company, launched in 1996, being non-profit by its statute.

The CNVM strategy aims to consolidate the two markets, Bucharest Stock Exchange and RASDAQ Electronic Exchange in order to increase the size of the Romanian capital market within S-E European region by reducing the trading costs on the stock exchange and promoting of uniform standards on the market.

Sri Lanka

The trading at the Colombo Stock Exchange (CSE) is fully automated. The settlement and clearing process for equities is scripless and is in the form of a Two Tiered Rolling System. The settlement process for transactions on debt securities is in the form of a

Single Tiered Rolling System. The Central Depository Systems (Pvt) Ltd., which is a wholly owned subsidiary of the CSE is responsible for the clearing, settlement and registration of secondary market transactions

South Africa

The aforementioned markets are directly regulated by the licensed exchanges, with the JSE Securities Exchange South Africa (“JSE”) regulating the market for equities and derivatives and the Bond Exchange of South Africa (“BESA”) regulating the bond market. The Financial Services Board (“FSB”) performs a supervisory role over the activities of the JSE and BESA and is responsible for the licensing of the exchanges as self-regulatory organisations and the annual renewal of their licences.

Chinese Taipei

The nature of the TSEC is to facilitate a market that channels savings to investment, to enforce adequate disclosure of market-related information, to maintain a fair, open and safe trading market, to provide innovative and superior services to the market participants, and to pursue an efficient operation at the international level. The nature of the GTSM is to help the small-and-medium enterprises acquire long-term and steady funds and process trading activity.

Thailand

Most of securities are traded electronically in the stock exchange (including MAI) which is under supervision of the Securities and Exchange Commission (SEC). The exchange’s mandate is to be a market or center for the purchase and sales of securities, as well as provide any related services. It must operate under the legal framework laid down in the Securities and Exchange Act, 1992. The Act enables the exchange to perform self-regulatory functions subject to the SEC’s oversight.

The Agricultural Futures Trading Exchange of Thailand is governed by the Agricultural Futures Trading Commission, which both are established under the Agricultural Futures Trading Act, 1999.

Whist the futures exchange to be found will be operated under the Futures Exchange Act, which came into force on January 6, 2004. The SEC is a regulatory body responsible for the futures exchange’s operation according to the act.

Turkey

ISE is the sole securities exchange in Turkey and is a state body. It has 4 markets, which are:

- Stock market (Stocks and right coupons)
- Bonds & Bills Market (Both outright purchases and sales and repo/reverse repo transactions. Most of the transactions are conducted on Government bonds and Treasury bills)
- Derivatives Market (Currency futures contracts)
- International Market (Depository Receipts, international bonds issued by Turkish Republic)

IGE is also a state body and its markets are as follows:

- Spot Market

Gold, silver, platinum

- Futures and Options Market

Futures and options contracts on gold

- Precious Metals Lending Market

Gold, silver, platinum and certificates backed by the precious metals lent

IFOE was established in July 2002 as a private derivatives exchange. Following the CMB's permission to operate, the IFOE is planned to become operational shortly in 2004. Trading will start with commodity contracts such as cotton and wheat futures. Financial contracts are also planned to be added to the system.

Uganda

We have debt markets and equity markets. Debt markets are markets where Government and corporations raise funds through the issuance of securities such as bonds (for long term investment) and commercial paper (for short term investment). Equity markets are markets where corporations raise funds through issuance of equity securities or shares.

Uruguay

Those regulated markets are Montevideo Stock exchange and Electronic Stock Exchange. The first one is a civil nonprofit association that operates in rounds by open outcry bids. The second one uses an electronic transactions system operating in three markets: the monetary market, the foreign exchange market and the securities market. Its members are mainly banks.

Vietnam

The mature of this market is the combination of call auction and put-through transaction. The call auction is undertaken through periodic order matching. The put-through transactions happen right after the completion of the periodic order matching.

3. *What instruments are traded in the markets mentioned above?*

Bulgaria

Instruments traded are shares, bonds, Compensatory Means of Payment and Investment Bills.

Colombia

Securities market: Equities, Securitisation, Ordinary bonds, Local government bonds, Other bonds, Convertible bonds, Commercial papers, External government bonds, Certificates of deposit, Bankers' acceptances, and public debt in the secondary market. There are also market indices contracts and some kind of derivatives as product that is offered by the Colombian Stock Exchange.

Public Debt Market: Treasury securities (TES B) . There are different types of instruments:

- a. Fixed rate in pesos
- b. Inflation-indexed in pesos
- c. Fixed rate in US dollars
- d. Fixed rate in real value units (UVR)

Commodities market: BNA products are: Forwards, repos for warehouse, receipts, spot, transfer or rights, secondary markets, repos for chickens, repos for invoices, repos for cattle, repos for pigs, export contracts on coffee, sale of invoices.

BACSA currently competes only for registrations of off-exchange transactions, because it has not yet met the standards required by the Superintendency of Securities to offer any other products

Egypt

Stocks, bonds and close ended mutual funds certificates.

Jordan

Instruments traded are equities (shares and bonds)

Malaysia

Securities and derivatives products. Derivatives products offered are futures and options contracts, including commodities contracts.

Explanation:-

“securities” is defined in **section 2 of the Securities Commission Act 1993 (SCA)** as covering debentures, stocks or bonds issued or proposed to be issued by any government; shares in or debentures of, a body corporate or an unincorporated body; or unit trusts or prescribed investments; and includes any right, option or interest in respect thereof.

“futures” contracts means:

- (a) an agreement that is, or has at any time been, an eligible delivery agreement or adjustment agreement;
- (b) a futures option
- (c) an eligible exchange traded option; or
- (d) any other agreement, or any other agreement in a class of agreements, prescribed to be futures contracts under **section 2B of the FIA**.

But does not include an agreement :

- (aa) which is :
 - (i) a currency swap;
 - (ii) an interest rate swap
 - (iii) a forward exchange rate contract; or
 - (iv) a forward interest rate contractauthorized by Bank Negara Malaysia and to which a licensed institutions is a party.
- (bb) which, when entered into, is in a class of agreements prescribed not to be futures contracts; or
- (cc) which is prescribed to be an agreement that is not to be traded in on a futures market.

Malta

Equities, Fixed Income Securities and Collective Investment Schemes

(mainly denominated in local currency but include securities denominated in Euro/US\$)

Morocco

Equities and bonds.

Nigeria

Equities and Debts

Equities market is for corporations to raise fresh funds through issuance of equity instruments. The debt market provides governments and corporations access to issuance of debt instruments.

Oman

Shares and Bonds.

Pakistan

Equities, debt instruments like Term Finance Certificates and derivatives in shape of individual equity futures contracts are traded.

Philippines

Most of the issues listed in the PSE are common stocks. Other types of securities such as preferred stocks, warrants, PDRs and bonds are also traded.

- 1) Common Stocks – These are usually purchased for participation in the profits and control of ownership and management of the company. Holders of common stocks have voting rights. They are also entitled to an equal pro rata division of profits without preference or advantage over another stockholder. However, they have the last claim on dividends and are the last to collect in case of corporate liquidation.
- 2) Preferred Stocks – Its name derived from preference given to the holders of these stocks over holders of common stock. Holders of preferred stocks are entitled to receive dividends, to the extent agreed upon, before any dividends are paid to the holders of common stock. However, preferred stocks usually have a specified limited rate of return or dividend and a specified limited redemption and liquidation price.
- 3) Warrants – a corporation can also raise additional capital by issuing warrants. A warrant, normally issued on a detachable basis, allows its holders the right, but not the obligation, to subscribe to new shares at a set price during a specified period of time. It is usually provided free of charge and traded separately in the securities market.
- 4) Philippine Deposit Receipts (PDRs) - A PDR is a security which grants the holder the right to the delivery or sale of the underlying share, and to certain other rights including additional PDR or adjustments to the terms or upon the occurrence of certain events in respect to rights issues, capital reorganizations, offers and analogous events or the distribution of cash in the event of a cash dividend on the shares. PDRs are evidences or statements or certificates of ownership of a foreign-/foreign based

corporation. For as long as the PDRs are not exercised, the shares underlying the PDRs are and will continue to be registered in the name of and owned by and all rights pertaining to the shares shall be exercised by the issuer.

- 5) Small-Denominated Treasury Bonds (SDT-Bonds) – The SDT Bonds are long-term and relatively risk-free debt securities issued by the Bureau of the Treasury (BTr) of the Republic of the Philippines. The bond is a certificate of indebtedness of the Republic of the Philippines to the owner of the SDT-Bonds.

Poland

Stocks, bonds and derivatives

Romania

- On Bucharest Stock Exchange (BVB) are traded shares and bonds (municipal bonds and corporate bonds).
- On Sibiu Financial-Monetary and Commodities Exchange (BMFMS) are traded futures and options on currency exchange rates and stocks.
- On RASDAQ Electronic Exchange (BER) are traded only shares

Sri Lanka

Equity and Debt [However, only the trading activities in equity listed on the CSE and the corporate debt fall within the regulatory purview of the Securities & Exchange Commission of Sri Lanka (SEC)]. The trading activity of beneficial interest in government debt falls within the regulated purview of the Central Bank of Sri Lanka.

South Africa

- equities (shares),
- financial derivatives such as warrants, equity indices, interest rate futures and options, futures on indices, individual equity futures and options,
- agricultural derivatives such as futures and options on maize, sunflower, wheat and soybeans;
- long dated bonds such as government bonds, municipal bonds, corporate bonds and parastatal bonds. In certain cases the use of enhanced credit derivatives (such as credit default swaps) are used in the structuring of these products.

Chinese Taipei

The TSEC provides a variety of securities products including stocks, beneficiary certificates, warrants, ETF, Chinese Taipei depository receipts and bonds to investors, who can buy and sell above listed products in this market. While the GTSM provides stocks, beneficiary certificates, warrants and bonds to investors, who can buy and sell above the Chinese Taipei futures markets provide trading of Index futures, Index options, stock options, and Bond Futures.

Thailand

Common stocks, preferred stocks, unit trusts, warrants, and corporate bonds are traded in the SET while there are only common stocks and warrants traded in the MAI. Swap and forward contracts are OTC derivatives available now.

Turkey

- Stock market (Stocks and right coupons)
- Bonds & Bills Market (Both outright purchases and sales and repo/reverse repo transactions. Most of the transactions are conducted on Government bonds and Treasury bills)
- Derivatives Market (Currency futures contracts)
- International Market (Depository Receipts, international bonds issued by Turkish Republic)

- Spot Market
Gold, silver, platinum
- Futures and Options Market
Futures and options contracts on gold
- Precious Metals Lending Market
Gold, silver, platinum and certificates backed by the precious metals lent

Uganda

Debt markets – bonds and commercial paper, Equity markets – shares

Uruguay

Montevideo Stock Exchange: Mostly public and private bonds. Almost no trade in stocks.

Electronic Stock Exchange: Public and private bonds, CDs and foreign currency.

Vietnam

The tradable instruments in the market are: stock, government bonds, municipal bonds, corporate bonds and investment units.

4. *How many foreign market intermediaries are operating in your jurisdiction?*

Bulgaria

No foreign market intermediary operating.

Colombia

Colombian law has not regulated cross-border service providers that do not have a physical presence within their borders. We apply local requirements in all circumstances and foreign intermediaries must have a presence in the country by establishing a subsidiary. This requirement constitutes essentially a prohibition of access to remote cross-border services. Therefore there are no foreign market intermediaries operating in Colombia. Nevertheless, it should be noted that Colombia does not apply local requirements to a foreign intermediary if a domestic investor contacts the foreign intermediary, on an unsolicited basis, to effect a transaction on a foreign market.

However, local securities firms are authorized to enter into “correspondent contracts” with the purpose of promoting in Colombia the celebration of business between clients and different kinds of foreign financial services providers. In developing these contracts securities firms work on the delivery and reception of Colombian legal currency, securities and any other complementary documents, but can not act as representatives in

the celebration of juridical business of this nature on behalf of any of the parts which intervene, to take their own position or to provide financing to such transactions.

These contracts should be sent to the Superintendency of Securities for review 10 working days before the beginning of the operations. Currently we have 40 securities firms in operation and there are 20 contracts registered in the Superintendency.

Resolution 400 of 1995 regulates these contracts and the wording of the correspondent articles is as follows:

Chapter Twelfth

Correspondent Contracts

Art. 2.2.12.1. *Modified, Res. 598 of 1997, Art. 1st.* **Object.** The securities firms can execute correspondent contracts with stock exchange houses, banking companies, fund investment administrators and/or private companies of investment banking, in order to promote the execution of business between third parties and such companies, and to promote their own ones in the foreign countries.

In the development of such contracts, the securities firms can carry out their works corresponding to the delivery and reception of legal Colombian currency, securities and any other complementary documents, according with the commercial and exchange norms that rule the matter, but not acting in any event as middlemen of the exchange market. Neither can the securities firms act as representatives in the celebration of juridical business of this nature on behalf of any of the parts which intervene, to take their own position or to provide financing to such transactions.

Art. 2.2.12.2. Previous information. Copies of the celebrated agreements, duly translated into Spanish, have to be remitted the Superintendency of Securities (Superintendencia de Valores) with an advance not inferior to 10 working days to the date in which the transactions will start to operate.⁸

Egypt

Foreign market intermediaries are operating as joint venture companies.

Jordan

No foreign market intermediary operating

Malaysia

As at 31 March 2004:

- There were about 8 local Fund Management Companies With Foreign Participation (49% or less)
- There were 2 foreign owned Fund Management Companies (100%)
- There were 3 foreign Fund Management Companies With Local Participation (49% or less)
- There were about 19 foreign Investment Advisers
- There were 2 foreign-owned futures brokers.

⁸ This is not an official translation of the Colombian law.

Malta

None

Morocco

Zero

Nigeria

There are (3) three: one issuing house, one rating agency and one financial adviser

Oman

Nil

Pakistan

None

Philippines

There are 36 registered foreign brokers as of January 1, 2004.

Poland

Not available

Romania

There are no foreign market intermediaries operating directly in our jurisdiction.

South Africa

81 foreign investment managers, 6 broking members of the JSE

Sri Lanka

None of the foreign market intermediaries are operating in our jurisdiction if classified by incorporation (For a Foreign Market Intermediary to operate in our jurisdiction it has to form a local subsidiary and register with the Registrar of Companies in terms of the Companies Act No. 17 of 1982.)

Chinese Taipei

There are 19 foreign securities firms establishing their branches in Chinese Taipei.

Thailand

None of foreign market intermediaries are operating in our jurisdiction if classified by where they incorporate.

Turkey

There are 12 foreign banks in Turkey dealing with capital markets activities (except stock trading in exchanges). Also foreign market intermediaries can trade in Turkish markets via local intermediaries or through acquiring shares of local intermediaries. The activities of foreign market intermediaries in Turkey by means of remote access and other electronic means are regulated to some extent by article 37 of the Communiqué Serial: V, No:46.

Uganda

A foreigner is a person who is not a citizen of Uganda (*Section 9 of the Investment code Act cap 92* and the *Interpretation Act* [which allows the adaptation of the dictionary meaning where no meaning]). Thus a broker/ dealer who is not a citizen of Uganda and has been licensed in Uganda under the *CMAA cap 84* and the Regulations there under is a foreign market intermediary. There is no foreign market intermediary operating in Uganda.

Uruguay

Nine foreign market intermediaries are operating in our jurisdiction. They are domestic firms belonging to foreign owners. They do not trade in the Uruguayan stock exchanges.

Vietnam

There is not any.

5. ***How many such foreign market intermediaries are registered with you?***

Bulgaria

No foreign market intermediary registered

Colombia

None, but as mentioned above there are 20 “correspondent contracts”.

Jordan

No foreign market intermediary registered

Malaysia

As at 31 March 2004:

- There were about 8 local Fund Management Companies With Foreign Participation (49% or less)
- There were 2 foreign owned Fund Management Companies (100%)
- There were 3 foreign Fund Management Companies With Local Participation (49% or less)
- There were about 19 foreign Investment Advisers
- There were 2 foreign-owned futures brokers.

Malta

None

Morocco

Zero

Nigeria

The three above mentioned market intermediaries are registered by the SEC

Oman

Nil

Pakistan

N/A

Philippines

All

Poland

Not Available

Romania

See the response from question 4

South Africa

81 Foreign Investment Managers Are Approved By The FSB

Sri Lanka

In terms of the Securities & Exchange Commission of Sri Lanka Act No.36 of 1987 as amended the stock broking firms, underwriters, margin providers, credit rating agencies, investment managers as well as clearing houses of listed securities fall under the category of market intermediaries regulated by the SEC. (The stock brokers are required to be licensed by the SEC and the rest of the market intermediaries are required to be registered.) Even though any 100% foreign owned market intermediaries are not operating in Sri Lanka there are few market intermediaries which have foreign shareholdings.

Chinese Taipei

The approval and certificate of license from the Competent Authority (SFC) are required for the operation of securities business by all the foreign securities firms.

Thailand

None

Turkey

In addition to 12 foreign banks physically operating in Turkey, 7 brokerage houses with foreign capital are registered with CMB

Uganda

None

Uruguay

Nine

Vietnam

There is not any.

6. *How many foreign market intermediaries are physically present in your jurisdiction?*

Bulgaria

None

Colombia

None, but as mentioned above there are 20 “correspondent contracts”.

Jordan

None

Malaysia

As above

Malta

None

(Note to 4, 5, and 6: Foreign market intermediaries is interpreted to mean as intermediaries incorporated and established outside Malta, and Passporting provisions in terms of the Investment Services Directive and UCITS for operators from the EU and EEA countries were introduced on the 1 May 2004 and - no applications have been received so far.)

Morocco

Zero

Nigeria

Three Stanbic Bank, Global Rating and Citi Bank

Oman

Nil

Pakistan

N/A

Philippines

All 36 foreign brokers have branch offices in the Philippines. They are considered as foreign market intermediaries because they are registered as a branch office here in the Philippines with a parent company in other jurisdiction

Poland

None

Romania

See the response from question 4

South Africa

None

Sri Lanka

None. However, market intermediaries which have foreign shareholdings are operating in Sri Lanka.

Chinese Taipei

All of the foreign securities firms must physically present in Chinese Taipei. So the foreign securities firms operating securities business in Chinese Taipei must establish branch or representative offices.

Thailand

None. Thailand has not yet licensed any FMI incorporated in other jurisdictions to carry securities business domestically

Turkey

There are 12 foreign banks physically operating in Turkey and 7 brokerage houses with foreign capital.

Uganda

None

Uruguay

Nine

Vietnam

There is not any.

7. ***How many cross border listings have taken place in your jurisdiction?***

Bulgaria

No cross border listing

Colombia:

Entity	Date	Amount
IFC – international Finance Corporation	21. March. 2002	USD 153.535.708
CAF – Andean Development Corporation	09. December. 2003	USD 50.000.000
World Bank – BIRF	29. March. 2004	USD 224.409.808

Jordan

Cross border listing allowed in Jordan – one cross border listing at the moment.

Malaysia

Will provide data later.

Malta

318 Collective Investment Schemes
One – Fixed Income Security

Morocco

Zero

Nigeria

None as at 14th July 2004.

Oman

Two

Pakistan

None

Philippines

None. Because under the Securities Regulation Code (SRC), before any security could be sold or offered for sale on distribution or traded in the Philippines, it must first be registered with the Securities and Exchange Commission. (Sec. 8, SRC)

Poland

One

Romania

No cross border listings have been registered in our jurisdiction.

South Africa

23

Sri Lanka

None

Chinese Taipei

There are six foreign companies registered and listed stocks on the TSEC which are also listed in foreign jurisdictions.

Thailand

None.

Turkey

Although the CMB communiqué on the registration requirements for issuing foreign securities dates back to 1996, there are no cross border registration have taken place in our jurisdiction yet. On the other hand, only one company's (JSC Kazkommertsbank) depository receipts are listed on the ISE international market.

Uganda

Two

Uruguay

Three

Vietnam

There is not any cross border listing having taken place in our market.

- 8. What are the amounts of annual net investment in equities and bonds in your jurisdiction in the last 3 years?**

Bulgaria:

31.12.2001 – 1 103 827 505 lv. or in 566 065 387,18 EUR

31.12.2002 – 1 375 184 361 lv. or in 705 222 749,23 EUR

31.12.2003 – 2 722 008 207 lv. or in 1 395 901 644,62 EUR

Colombia:

(Million dollars)

	2.001	2.002	2.003
Acciones	40,63	187,06	103,29
Bonos	263,07	665,68	677,73

Source – Superintendence of Securities

The figures correspond to the net investment amount subscribed by investors

Jordan

Year	Buying (JDS)	Selling (JDS)	Net Investment (JDS)
2001	104.486.389	211.990.826	(107.504.437)
2002	233.384.182	232.501.490	882.692
2003	281.085.270	199.195.647	81.889.623

Malaysia

Given in question 9

Malta

Market Capitalisation

	2001	2002	2003 (in Millions)
Govt Stocks	863	876	1,020
Corporate Bonds	108	160	181
Equity	610	551	632
Total	1,571	1,587	1,833
CIS's	250	1,034	N/A

[all figures are quoted in Maltese Liri : Lm1 = US\$2.6 approx]

Morocco:

N.A. 1.5% of the Morocco Stock Exchange floating is held by foreigners

Nigeria

	Exchange rate (₦= US\$1.00)	Equities ₦ 'm	Bond ₦ 'm	Total ₦ 'm
2001	112.0	17,305.50 (\$154.5m)	3,500.00 (\$31.3m)	20,805.50 (\$185.8m)
2002	126.9	38,414.43 (\$302.7m)	3,525.50 (\$27.8m)	41,939.93 (\$330.5m)
2003	137.2	24,005.71 (\$175.0m)	84,192.00 (\$613.6m)	108,197.71 (\$788.6m)

Oman:

YEARS	2003	2002	2001	
Shares	592.8 M	231.3M	163.8M	
Bonds	17.4 M			M=Million

Pakistan

New listing in equity/corporate bonds over the last 3 years is as under:

Year	Funds Mobilized ⁹ (Rs. in billions)
2001	10.07
2002	28.61
2003	15.13

Philippines

<u>Year</u>	<u>Volume</u>	<u>Value</u> (in Million P & \$)
2001	184,434,266,739	P 159,555.3 M \$ 3,124.9 M*
2002	99,845,092,796	159,727,3 M 3,091.1 M*
2003	85,966,131,018	145,355.2 M 2,671,9 M*

*Phil. Peso P – US\$ Conversion were based on end-of-year conversion rate

⁹ Source: Karachi Stock Exchange Annual Report 2004

Poland:

Table 1. Capitalization and turnover on Polish regulated markets

	WSE		MTS-CeTO	
	Capitalization (mln EUR)	Turnover (mln EUR)	Capitalization (mln EUR)	Turnover (mln EUR)
2001	28 441	51 391	65	86
2002	30 473	38 634	62	170
2003	38 127	49 041	86	2 181

Source: WSE, MTS-CeTO

South Africa:

Equities- R757 billion or \$116,5 billion

Bonds- R10,5 trillion or \$1,6 billion

Sri Lanka:

Data is not available.

Chinese Taipei:

The total trading value in securities markets of 2001 to 2003 are US\$ 4106.9 billions, 4683.1 billions and 4648.5 billions respectively.

Thailand: N/A

Turkey

Annual trading volume in equities and bonds in the last 3 years is as follows (million USD):

2001: 744.941

2002: 618.738

2003: 946.132

*Annual net investment data is not available in ISE

Uruguay

Not available at the moment.

Vietnam

Unit: VND 1000

2001

1.931.450.809

2002

1.083.363.036

2003

2.998.322.487

9. **What are the amounts of annual net foreign investment in equities and bonds in your jurisdiction in the last 3 years?**

Bulgaria

Information not available

Colombia

(Million dollars)

	2001	2002	2003
Equity	322,0	233,0	235,0
Bonds	2,0	26,2	35,3

Source – Superintendence of Securities

In order to obtain the net foreign investments, the figures were calculated as the subtraction of foreign investment amount of year X_t from year X_{t-1} .

Malaysia

Fund Management: Statistics

Table 1 - Funds Managed by Fund Management Companies in Malaysia As at 31/12/2003

(RM billion) (RM billion)	2003	2002
	Licensed fund management companies ¹	79.336
Approved unit trust management companies ²	15.414	11.164
Total	94.750	75.429

As at 31 December 2003, the total funds managed by the fund management companies in Malaysia, comprising licensed fund management companies and approved unit trust management companies, amounted to RM94.75 billion, a 25.6% increase from the previous year (Table 1).

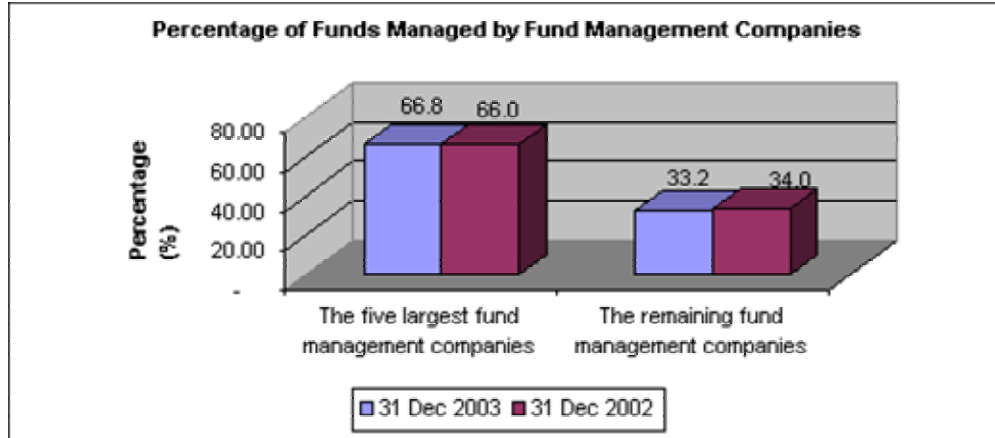
Table 2 - Funds Managed by Licensed Fund Management Companies – By Source

Source Of Funds	Local (RM Million)		Foreign (US\$ Million)	
	2003	2002	2003	2002
Charitable bodies	369.87	288.25	2.37	2.26
Corporate bodies	6,217.84	5,628.52	592.89	592.29
Employee Provident Fund	5,452.15	4,232.65	-	-
Government agencies/bodies	1,683.79	1,280.34	-	-
Individuals	1,445.19	1,724.91	28.60	43.70
Insurance companies	1,074.14	857.72	1.60	5.40
Private pension funds	1,269.86	959.79	0.13	0.08
Unit trust funds	54,979.09	42,534.28	270.64	141.21
Other funds ³	3,230.45	3,748.59	54.68	7.17
Total	75,722.38	61,255.05	950.91	792.11

US\$1=RM3.80

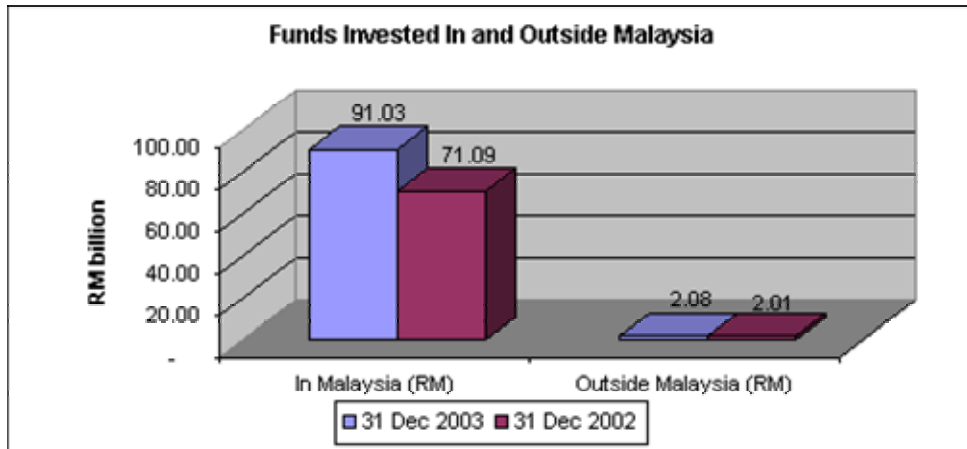
For licensed fund management companies, funds sourced from unit trust funds form the largest part of local funds under management, reaching RM54.98 billion at the end of 2003, compared with RM42.53 billion as at end of December 2002. This amount represented more than 70% of total funds managed by licensed fund management companies at the end of 2003. Other types of funds under management include funds of charitable bodies, corporate bodies, EPF and EPF contributors, government bodies/agencies, individuals, insurance companies and private pension funds. As for foreign funds under management, the bulk of these funds comprised funds of foreign corporate bodies (62%), following the same pattern as at end 2002 (Table 2).

Chart 1- Percentage of Funds Managed by Fund Management Companies



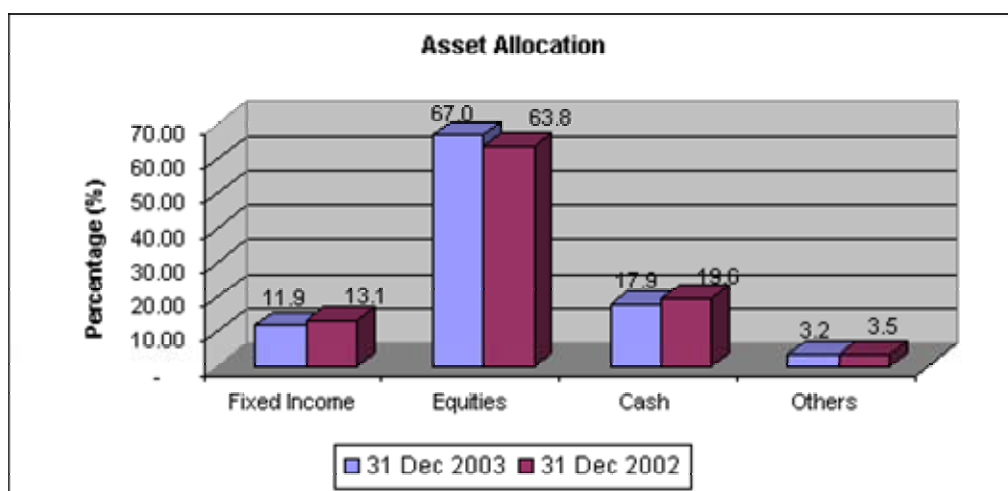
As at 31 December 2003, the five largest fund management companies accounted for 66.8% of the total funds under management, a slight increase of 0.8% from the percentage recorded at the end of the previous year.

Chart 2 - Funds Invested In and Outside Malaysia



As at 31 December 2003, the amount of funds under management that were invested domestically stood at RM91.03 billion, an increase of 28% from end 2002. Meanwhile, funds that were invested outside Malaysia amounted to RM2.08 billion, reflecting a slight increase of 3.5% compared with end 2002.

Chart 3 - Asset Allocation



Compared with 2002, there was no major change in the pattern of asset allocation for the year ended 2003 – with concentration still focused in equities (2003: 67.0%, 2002: 63.8%) followed by cash (2003: 17.9%, 2002: 19.6%), fixed income (2003: 11.9%, 2002: 13.1%) and others (2003: 3.2%, 2002: 3.5%).

¹ Based on 71 licensed fund management companies in 2003, and 66 licensed fund management companies in 2002.

² Figures denote amount of funds internally managed by approved unit trust management companies.

³ Include funds established for special purposes, which would not fall under the categories indicated on the table.

Malta

2003

Govt Stocks:	31% of capitalization	Lm316 million
Corporate Bonds	0.61% of capitalization	Lm1.1million
Equity	0.13% of capitalization	Lm0.8 million

Figures for 2001 and 2002 are not available

Morocco

N.A. 1.5% of the Morocco Stock Exchange floating is held by foreigners

Nigeria

Not Available

Oman

YEARS	2003	2002	2001
Percentage	16.46%	14.94%	14.31%
Market Cap(M)	2.789.9	1.983.6	1.721

M=Million

Pakistan

Net Portfolio Investment US \$ 20.1 Million¹⁰

Philippines

No available data

¹⁰ Source: State Bank of Pakistan website. (www.sbp.org.pk)

Poland

Table 2. Annual net foreign investment in equities and bonds in Poland

	2001	2002	2003
Equities (mln EUR)	-339	-588	-717
Bonds (mln EUR)	1 437	3 704	4 086

Source: National Bank of Poland

Romania

Year	Input	Output	Buying	Selling
2001	103,488,904 EURO	659,231,101.32 EURO	120,887,433.75 EURO	125,007,101.88 EURO
2002	77,398,187.80 EURO	42,389,654.58 EURO	91,401,687.58 EURO	65,325,987.92 EURO
2003	150,031,993.73 EURO	89,487,994 EURO	168,113,361.34 EURO	108,113,962.51 EURO

South Africa

Equities – R2,4 billion or \$410 million

Bonds- R2,2 trillion or \$338 billion

Sri Lanka

Year Net Inflow/(Outflow) Rs. Mn

2001	(1,024.8)
2002	2,441.5
2003	209.4

Chinese Taipei

The accumulated net Inward Remittance of foreign investment in Chinese Taipei's stock market for the last three years are US\$ 41.42 billions, 42.99 billions, 66.32 billions respectively.

Thailand

Securities types	2001	2002	2003 ¹¹
equities	USD 1,492 Mil.	USD 1,472 Mil.	USD 2,085 Mil.
bonds	USD 1,014 Mil.	USD 1,137 Mil.	USD 248 Mil.

Source: Economic and Financial Statistics, fourth quarter 2003, Bank of Thailand.

Turkey

Annual net foreign investment in equities in the last 3 years is as follows (USD):

2001: +508.594.895

2002: -14.946.313

2003: +1.009.828.996

***Annual net foreign investment in bonds data is not available in ISE**

¹¹ The figures available are as of the third quarter.

Uruguay

Not available at the moment.

Vietnam

Unit: VND 1000

2001

n/a

2002

146.697.560

2003

105.791.662

Outward bound

10. *How many local market intermediaries are operating in foreign jurisdictions?*

Bulgaria

None

Colombia

None. Regulation does not allow local market intermediaries to operate abroad.

Egypt

Not available because they are operating through foreign market intermediaries

Malaysia

As at March 31 2004, there was 1 foreign-owned futures broker operating in foreign jurisdiction, i.e. Okachi (M) Sdn Bhd.

The said company is licensed by the SC to trade in specified foreign exchanges overseas.

Malta

None: (We are assuming that this refers to market intermediaries actually offering the services in question directly in a jurisdiction outside Malta ie not through other intermediaries.)

Morocco

One

Nigeria

None

Oman

Nil

Pakistan

None

Philippines

None

Poland

Not available

Romania

There are no local market intermediaries that operate in foreign jurisdiction.

South Africa

The information is currently not available.

Sri Lanka

As far as licensed stockbrokers are concerned none.

Chinese Taipei

As far as we know, there are fifteen local securities firms having their own overseas subsidiary company. Besides, we have permitted local securities firms to establish the branch office in foreign jurisdictions since 31 December, 2003. There is one securities firm applying for the permit until now.

Thailand

None.

Turkey

5 of the local market intermediaries have branches, representative offices or agencies in foreign jurisdictions. Also, local market intermediaries may trade in foreign jurisdictions via local market intermediaries of foreign jurisdictions.

Uruguay

Not available at the moment.

Vietnam

There is not any.

11. ***How many companies registered with you and listed on stock exchanges in your jurisdiction that are also listed in foreign jurisdictions?***

Bulgaria

None

Colombia

DR ISSUE	INDUSTRY	TYPE	DATE
<u>BANCO GANADERO COMMON SHARES</u>	Banks	Level I	Sep 24, 2001
<u>BANCO GANADERO PREFERRED SHARES</u>	Banks	Level I	Sep 24, 2001
<u>BANCOLOMBIA PREFERRED SHARES</u>	Banks	Level III	Jul 01, 1995
<u>CARULLA VIVERO S.A. - 144A</u>	Retail	144A	Jun 01, 1994
<u>CEMENTOS DIAMANTE S.A.</u>	Building materials	144A	May 24, 1994
<u>CEMENTOS DIAMANTE S.A.</u>	Building materials	Reg S	May 24, 1994
<u>CEMENTOS PAZ DEL RIO, S.A. - 144A</u>	Building materials	144A	Dec 19, 1997
<u>CORPORACION FINANCIERA DEL VALLE S.A.</u>	Financial sector	Level I	Dec 05, 2002
<u>CORPORACION FINANCIERA DEL VALLE S.A. - 144A</u>	Financial sector	144A	Dec 05, 2002
<u>GRAN CADENA DE ALMACENES COLOMBIANOS</u>	Retail	144A	Dec 22, 1994
<u>GRAN CADENA DE ALMACENES COLOMBIANOS - REG S</u>	Retail	Reg S	Dec 22, 1994
<u>ISA</u>	Electric utilities	Level I	Mar 22, 2004
<u>PAPELES NACIONALES, S.A.</u>	Household products	Reg S	Oct 01, 1994

Source: Bank of New York – Depositary Receipts

Egypt

9 Global Depositary Receipts

Malaysia

Refer Q. 7

Malta

One Equity : (We have taken companies to mean locally incorporated entities.)

Morocco

Zero. One is listed through GDRs.

Nigeria

None

Oman

Two

Pakistan

None

Philippines

- 1) Benguet Corporation
- 2) Philippine Long Distance Telephone Co.
- 3) Manulife Financial Corporation
- 4) Sunlife Financial Services of Canada, Inc.

- 5) Philex Mining Corporation
- 6) Ionics, Inc.

Poland

GSRs of nine companies registered in Poland are listed in foreign jurisdictions, mainly in London, Berlin.

Romania

There are no companies registered with the Romanian National Securities Commission and listed on stock exchanges that are also listed in foreign jurisdiction.

South Africa

23 foreign companies listed on the JSE securities exchange.

Sri Lanka

None

Chinese Taipei

There're 165 ADRs and GDRs registered and listed in Chinese Taipei that are also listed in foreign jurisdictions.

Thailand

None.

Turkey

67 companies listed on the ISE are also listed in different country's stock exchanges.

Uganda

Two

Uruguay

None

Vietnam

There is not any.

12. ***What are the amounts of annual net investment in equities and bonds made by local investors and local intermediaries in foreign jurisdictions in the last 3 years?***

Bulgaria

Information not available

Colombia

The following figures were prepared by the Central Bank through its Foreign Portfolio Investment Survey to local intermediaries – banks, trust companies, broker dealers, mutual funds, pension funds and insurance companies.

Portfolio investment holdings (assets) by currency of denomination of the underlying securities

Millions US Dollars

	Equities	Long-term Debt Securities	Short-term Debt Securities	TOTAL
2001	337,66	1.120,17	193,94	1.651,77
2002	421,58	1.226,12	158,94	1.806,64

But this survey does not include the amounts of net investment of local investors (households); so in case of needing the aggregate figures of net investments in foreign jurisdictions you can consult them in the Colombian Balance-of-Payments.

Egypt

Not available.

Morocco

Due to foreign exchange regulation, local investors are not allowed to invest abroad.

Nigeria

Not available

Oman

N/A

Pakistan

Data not available

Philippines

No. available data

Poland

Table 3. Annual net investment in equities and bonds made by local investors and local intermediaries in foreign jurisdictions

	2001	2002	2003
Equities (mln EUR)	-76	-283	170
Bonds (mln EUR)	118	-925	-1 305

Source: National Bank of Poland

Romania

Not applicable

South Africa

The information is currently not available.

Sri Lanka

Data is not available.

Chinese Taipei

The average annual overseas investments of the local securities firms are over 3.4 billions in US dollar.

Thailand

Net Investment in equities and bond and direct investment abroad by local investors			
Million of US\$	2001	2002	2003
Equities and Bonds	237	944	1030
Thai direct investment abroad	91	55	305

Source: Bank of Thailand.

Turkey

Data not available.

Uruguay

Not available at the moment.

Vietnam

Data not available

II. Regulatory Infrastructure and Jurisdiction

Inward bound

1. ***How do/ would you define the term “cross-border activity”? Please choose any one or more or all of the following:***

- | | | | |
|--------------------|----------------------|------------------|-----|
| (a) local market | local intermediary | foreign customer | () |
| (b) local market | foreign intermediary | local customer | () |
| (c) local market | foreign intermediary | foreign customer | () |
| (d) foreign market | foreign intermediary | local customer | () |
| (e) foreign market | local intermediary | foreign customer | () |

Bulgaria

All of the above

Colombia

(b), (c),(d) and (e)

Egypt

(c) and (e)

Malaysia

All of the above

Malta

(a), (c) and (d) ✓

(b) And (e) Since 1 May 2004 it is possible for EU and EEA market intermediaries to carry cross border activity in terms of the ISD)

Morocco

All above

Nigeria

(a), (b), (c) and (d)

Oman

All of the above

Pakistan

(a), (b), (c) and (d)

Poland

(a) (c) and (d)

Philippines

(a) (c) (d) and (e)

Romania

(b), (c) and (e)

South Africa

(a) (c) and (d)

Sri Lanka

(a)

Chinese Taipei

All of the above

Thailand

(a),(c) and (d)

Turkey

(b) (c) and (e)

Uganda

(a), (b), (c) and (d)

Uruguay

(a), (c) and (d)

Vietnam

(a), (c) and (d)

2. ***Are there controls influencing capital movements or foreign exchange restrictions on the following:***

(a) inward direct investment (purchase of shares locally by non-residents)

Yes () No ()

(b) liquidation of direct investment (sale of shares locally by non-residents)

Yes () No ()

If yes, please specify.

Bulgaria

Yes for both (a) and (b). *(No further explanation given)*

Colombia

There is no foreign exchange restriction on inward direct investment and liquidation of direct investment

Egypt

No

Jordan

There is no foreign exchange restriction on inward direct investment and liquidation of direct investment

Malaysia

Malta

Yes for both (a) and (b). Only where the non-residents are non-EU or non-EEA countries

Morocco

No

Nigeria

No

Oman

There is no restriction

Pakistan

No for both

Philippines

No for both

Poland

No

Romania

No for both

South Africa

No

Sri Lanka

Yes for both (a) and (b).

Chinese Taipei

There is no foreign exchange restriction on inward direct investment and liquidation of direct investment

Thailand

(a) yes and (b) no. Foreign equity limited to 25% in local banks, finance co, credit finance co. & asset mgmt co. Combined family shares not > 5% of bank's; 10% of finance co. and credit foncier co. Foreign equity limited to 49% for other Thai co. Since 1998, foreigners are allowed to hold local FIs up to 100 % for 10 year after 10 year, foreign will not be permitted to acquire more share until their ownership ratios for below 49 %. Moreover, 100% foreign ownership permitted with the approval of BOI since 1998.

Turkey

No

Uganda

(a) Yes. The factor influencing purchase of shares locally by foreign investors is tax holidays. However, there are restrictions on investments by foreigners. He or she must first of all be in possession of an entry permit. In addition, he or she must be in possession of an investment license (*Section 10 of the Investment Code Act cap 92*). If the foreign investor is a company, it must be registered in Uganda.

(b) Yes. Under *Section 10(1)(c) of the Exchange Control Act cap 171*, except with the permission of the minister, a security registered in Uganda shall not be transferred unless the transferee is resident in Uganda.

Uruguay

No for both

Vietnam

Yes for both. Foreign investors can repatriate the invested capital after 1 year from the date of transferring such amount to the securities trading account opened at a foreign depository member. The repatriation of dividend has no time restriction.

3. *Is there control on investment related payments such as remittance of dividend by non-residents?* Yes () No ()

Bulgaria

No

Colombia

No

Egypt

No

Morocco

No

Nigeria

No

Oman

No

Pakistan

No

Philippines

No

Poland

No

Romania

No

South Africa

Yes

Sri Lanka

Yes (See answer to (2))

Chinese Taipei

No

Thailand

No

Turkey

No

Uganda

Section 7(1) of the exchange control Act provides that except with the permission of the minister, no person shall in Uganda and no person resident in Uganda shall, outside Uganda, subject to this Section make any payment outside Uganda to or for the credit of a person resident outside Uganda, and no person resident in Uganda shall in Uganda do any act which involves, is in association with or is preparatory to the making of any such payment.

Uruguay

No

Vietnam

No

4. *Are there following control provisions specific to institutional investors such as insurance companies and pension funds:*

(a) maximum limits on the securities issued by non-residents locally

Yes () No ()

(b) maximum limits on portfolio invested locally by non-residents

Yes () No ()

Please specify any other control provision applicable.

Bulgaria

Yes for both (a) and (b). *(No further explanation given)*

Colombia

No for both (a) and (b) *(No further explanation given)*

Egypt

No for both (a) and (b).

Jordan

Equal treatment of local and foreign investor

Malaysia

Please see Q. 26

Morocco

No for both (a) and (b)

Nigeria

No for both (a) and (b)

Oman

No for both (a) and (b)

Pakistan

No for both (a) and (b)

Philippines

No for (a) and Yes for (b)

Poland

No for both

Romania

No for both (a) and (b)

South Africa

Yes for both (a) and (b).

Sri Lanka

Yes for (a) and No for (b)

In terms of Section 25 (1) of the Regulation of Insurance Industry Act No 43 of 2000 not less than 20% of the assets of the Technical Reserve being maintained for general insurance business and not less than 30% of the assets of the Long Term Insurance Fund being maintained for life insurance business are required to be held in government securities. In terms of Determination 1 of the Determinations issued by the Insurance Board of Sri Lanka the balance assets of the Technical Reserve and Long Term Insurance Fund of an insurer referred to in Section 25 (1) could be invested in listed shares subject to the maximum limit of 20%.

Chinese Taipei

No for both (a) and (b).

Thailand

Yes for (a) and No for (b)

Yes for (a). There are control provisions on investment of insurance companies and pension funds for securities issued by non-residents. However, insurance companies are allowed to invest in non-resident local currency denominated bonds issued by supranational corporations (World Bank, IFC, ADB) and JBIC without limits while respective regulations for government pension fund are under consideration.

No for (b). There is no specific limit on portfolio invested locally by non-residents insurance companies and pension funds.

Turkey

The answers below are valid for private pension funds. Regarding insurance companies and public pension funds, Under secretariat of Treasury and Ministry of Labor and Social Security should be contacted respectively.

(a)Yes. Securities issued by non-residents locally or abroad are considered as foreign securities. On the other hand, in our jurisdiction private pension funds are classified according to their asset allocation strategy and if the private pension fund is founded as a Foreign Securities Pension Fund, it can freely invest in foreign securities without a

maximum limit except general rules that limit the amount which can be invested in securities of a single issuer.

(b) No, non-resident institutional investors can make portfolio investments in our jurisdiction freely without maximum limits

Uruguay

No for both

Vietnam

(b) yes, Foreign investors are allowed to purchase not over 30% stock of a listed company and not over 30% charter capital of a company.

5. ***Are foreign exchange accounts permitted to be held domestically by non-residents?***
Yes () No ()

Jordan

Yes

Bulgaria

Yes

Colombia

Yes

Egypt

Yes

Malaysia

Malta

Yes

Morocco

Yes

Nigeria

Yes

Oman

Yes

Pakistan

Yes

Philippines

Yes

Poland

Yes

Romania

Yes

South Africa

Yes

Sri Lanka

Yes

Chinese Taipei

Yes

Thailand

Yes

Turkey

Yes

Uganda

Yes. *Section 4(2) of the Exchange Control Act* provides that the minister may direct any person in Uganda by whom any foreign currency is held in Uganda to cause that gold or currency to be kept at all time in the custody of a banker as may be specified in that direction.

Uruguay

Yes

Vietnam

Yes

6. Is a foreign market intermediary subject to licensing requirement?

Yes () No ()

Bulgaria

Yes

Colombia

Yes A foreign intermediary in order to operate in Colombia must have a subsidiary incorporated in Colombia since by law branches are not allow to operate in Colombia. As a consequence, a subsidiary of a foreign intermediary is a local intermediary and must comply with Colombian rules and regulation.

Egypt

Yes (The same rules applied for both local and foreign market intermediary)

Malaysia

Yes, the main factor that the SC uses to determine whether or not an intermediary is subject to the securities laws is the carrying on of a business in Malaysia, for which that intermediary is required to be licensed under the SIA. No distinction is made between the location of the intermediary and its carrying on of the business. As long as the intermediary carries on the business or holds itself out as carrying on a business, in Malaysia, for which it is required to be licensed, it will be subject to the full regulation of the Malaysian securities laws.

As long as the solicitation of Malaysian investors by the foreign intermediary falls within the definition of “dealing in securities” as defined above, it will be considered as carrying on the business of dealing in securities and will therefore need to be licensed under the SIA and subject to provisions of the Malaysian securities laws.

Malta

Yes

Morocco

Foreign intermediaries are subject to the same licensing requirements than local intermediaries. One of the requirements is that they should have their headquarter in Morocco.

Nigeria

Yes

Oman

Yes

Pakistan

Yes

Philippines

Yes

Poland

Yes, except for market intermediaries with their seat in a EU Member State which may provide their services in Poland on the basis of single passport principle (notification procedure).

Romania

Yes, The Capital Market Law makes distinction between intermediaries from Member States and intermediaries from non-Member States. In this respect, the intermediaries from Member States may provide investment services on the territory of Romania, according to the authorisation granted by the competent authority of the home Member State,

- directly, under the freedom to provide services or
- via a branch, without any authorisation from C.N.V.M. (Article 41)

Until Romania joins the European Union, the intermediaries from Member States may carry out activities on the Romanian territory without any authorisation, based on reciprocity, in compliance with the cooperation agreements concluded by C.N.V.M. with the competent authorities in the home Member States. The supervision of these intermediaries shall be performed according to the conditions provided in the respective agreements.(Article 288)

The intermediaries from non-Member States may provide services under the CNVM authorization and on the basis of the existence of a co-operation agreement between C.N.V.M. and the competent authority of the home country (Article 43).

South Africa

Yes

Sri Lanka

Yes, however, for a foreign market intermediary to operate in our jurisdiction it has to form a local subsidiary and register with the Registrar of Companies in terms of the Companies Act No 17 of 1982 and such companies are required to be either registered or licensed with the SEC in terms of the SEC Act No.36 of 1987 as amended.

Chinese Taipei

Yes

Thailand

Yes, Any market intermediary carrying business as specified in the SEC Act is subject to licensing requirement. However, Thailand currently does not allow FMI incorporated in other jurisdictions to obtain a securities license to carry business in Thailand. As a result, there is no FMI operating in Thailand

Turkey

Yes

Uganda

Yes, Every market intermediary operating in Uganda must be licensed (*Part IV of the CMAA cap 84* requires market intermediaries to be licensed)

Uruguay

Yes

Vietnam

Yes, A foreign partner can take part in Vietnam securities market in the form of establishing a joint venture with the maximum rate of capital contribution of 49% of the charter capital, or a joint stock company with the maximum rate of stock holding of 30%.

7. *If answer to 6 is yes, is the licensing requirement based on one or more of the following factors:*

- (a) type of investor ()
- (b) type of financial instruments offered by a foreign market intermediary ()

- (c) solicitation by a foreign market intermediary ()
(d) physical presence of a foreign market intermediary in your country ()
(e) any other factor (please specify below) ()

Bulgaria

Licensing requirement is based on (d) and also on capital and services, which will financial intermediary offer.

Colombia

Licensing requirement is based on (d)

Egypt

(c) and (d)

Malaysia

(a), (b), (c), and (d)

Malta

(a), (b), (c), (d) and (e)

Morocco

d) physical presence of a foreign market intermediary in your country

Nigeria

Licensing requirement is based on (d)

Oman

(a) and (b)

Pakistan

(e) Any person who wants to undertake business of stock brokerage is required to have membership of the concerned stock exchange and registration as broker from SECP under Brokers and Agents Registration Rules, 2001.

Philippines

(b), (c) and (d)

Poland

(e)

Licensing requirements are based on the following factors:

- capital requirements,
- source of capital,
- requirements concerning sufficient experience and good repute of the persons who will effectively direct the business of market intermediary,
- requirements concerning safety of services provided (e.g. IT, premises etc.),
- business plan.

Romania

(c) and (e). Please see answer to 6.

South Africa

(b), (c) and (d)

Sri Lanka

(d) The physical presence of the foreign market intermediary through the incorporation of a local company.

Chinese Taipei

(d) physical presence of a foreign market intermediary in your country

Thailand

(e) The licensing requirements are base on types of business to be offered, i.e. securities brokerage, securities dealing, investment advisory service, securities underwriting, mutual fund management, private fund management, and other businesses relating to securities as specified by the Minister upon the recommendation of the SEC.

Turkey

(a), (c) and (d)

Uganda

(e) The other factors include: Minimum financial requirements; Educational qualifications; Whether the applicant has been previously convicted of an offence involving fraud or dishonesty punishable with imprisonment for six months or more; Whether the applicant has been adjudged bankrupt; Character and reputation of the applicant.

Uruguay

(d)

Vietnam

(a) and (c)

8. *If a foreign market intermediary is subject to licensing requirements then whether laws/rules and regulations are in place:*

(a) to regulate foreign market intermediaries Yes () No ()
(b) to protect investor Yes () No ()

Bulgaria

Yes for both (a) and (b).

Colombia

No for both. According to answer 6 foreign intermediaries can not operate in Colombia and therefore there are no laws and regulation for foreign intermediaries.

Egypt

Yes for both (a) and (b).

Malaysia

Yes for both (a) and (b).

Malta

Yes for both (a) and (b).

Morocco

Yes for (b)

Nigeria

Yes for both (a) and (b)

Oman

Yes for both (a) and (b)

Pakistan

Yes for both (a) and (b)

The foreign intermediary once registered with SECP is considered at par with local intermediary and is subjected to the same rules and regulations as are applicable to a local intermediary.

Philippines

Yes for both (a) and (b).

Poland: Yes for both (a) and (b).

Romania

Yes to both. In order to protect the investors, the Capital Market Law contains provisions regarding prudential and conduct rules for intermediaries (Title II, Chapter IV and V). Also, the upcoming regulation on financial investment services introduces provisions with respect to the documents and information in their relationship with clients, rules regarding the execution of orders, rules on the conflict of interests, transparency requirements. (Title III, Chapter I, II and III).

South Africa

Yes for both (a) and (b).

Sri Lanka

Yes for both (a) and (b). For a foreign market intermediary to operate in our jurisdiction it has to form a local subsidiary and register with the Registrar of Companies in terms of the Companies Act No. 17 of 1982 and such companies are required to be either registered or licensed with the SEC in terms of the SEC Act No.36 of 1987 as amended.

Chinese Taipei

Yes for both (a) and (b)

Thailand

Yes for both (a) and (b).

However, FMI incorporated outside Thailand has not been licensed to operate in Thailand yet.

Turkey

Yes for both (a) and (b).

Uganda

(a) No, (b) Yes

Protection of investors is one of the cardinal roles of the CMA under *section 5 of the CMAA*. *Section 81 of the CMAA* provides for the Investor Compensation Fund which is to protect investors from pecuniary losses resulting from the failure of licensed broker or dealer to meet his or her contractual obligations.

Uruguay

Yes for both (a) and (b).

Vietnam

Yes for both

9. ***Which of the following regulatory approaches to cross-border activities of market intermediaries is followed in your jurisdiction. Tick as many as appropriate.***

- (a) requiring full compliance with regulatory regime
- (b) providing conditional exemption to domestic regulatory regime
- (c) requiring registration with limited relief from domestic regulations
- (d) a separate regime for foreign intermediaries
- (e) unilateral or mutual recognition with disclosure requirements
- (f) not applicable

Bulgaria

Yes for (a) and (e)

Colombia

(a) requiring full compliance with regulatory regime

Egypt

(a) requiring full compliance with regulatory regime

Malaysia

(a)

Malta

(a), (b),(c)

(d) only for EU and EEA)

Morocco

(a)

Nigeria

(a) requiring full compliance with regulatory regime

Oman

(a) and (f)

Pakistan

(a)

Philippines

(a) and (b)

Poland

Yes for (a) and (e).

Romania:

(a) and (e)

South Africa

(a)

Sri Lanka

(a)

Chinese Taipei

(a) requiring full compliance with regulatory regime

Thailand

Not applicable

Turkey

(a)

Uruguay

(a)

Vietnam

(a) and (c)

10. *Is a foreign market intermediary subject to regulatory oversight?*

Yes () No ()

Bulgaria

Yes

Colombia

No, there is no regulatory oversight of foreign market intermediaries, because they cannot operate in Colombia.

Chinese Taipei

Yes

Romania

Yes

Malaysia

Yes

Malta

Market intermediaries from the EU and EEA countries may be subject to a degree of regulatory oversight depending on how the activities are passported; others if they apply to operate in Malta.

Morocco

Yes, Foreign intermediaries are subject to the same licensing requirements than local intermediaries. One of the requirements is that they should have their headquarter in Morocco

Nigeria

Yes

Oman

No

Pakistan

Yes

Philippines

Yes

Poland

Yes

Romania

Yes

South Africa

No

Sri Lanka

Yes, for a foreign market intermediary to operate in our jurisdiction it has to form a local subsidiary and register with the Registrar of Companies in terms of the Companies Act No 17 of 1982 and such companies are required to be either registered or licensed with the SEC in terms of the SEC Act No.36 of 1987 as amended.

Thailand

Any market intermediary operating in Thailand is subject to SEC's regulatory oversight. However, FMI incorporated outside Thailand has not been licensed to operate in Thailand yet.

Turkey

Yes

Uruguay

Yes

Vietnam

Yes

11. ***Is a foreign market intermediary subject to regulatory oversight of more than one regulator? Please specify. (e.g Federal Bank, Securities and Exchange Commission, Foreign Exchange Control Authority etc.)***

Yes () No ()

Bulgaria

Yes

Colombia

No

Egypt: No. This applies only for banks who are acting as custodians and primary dealers.

Malaysia

Yes

Malta

No because the Malta Financial Services Authority is the Single Regulator

Morocco

No, Foreign intermediaries are subject to the same licensing requirements than local intermediaries. One of the requirements is that they should have their headquarter in Morocco

Nigeria

Yes

Oman

No

Pakistan

Yes

Philippines

Yes

Poland

No

Romania

According to the provisions of Art. 40, paragraph (1) from the Capital Market Law, the prudential supervision of the investment services provided by S.S.I.F., within Member States and non-Member States, either directly, or through the setting up of branches, shall

be carried out by C.N.V.M, without prejudice to the responsibilities of the competent authorities of the host Member State.

The special provisions of the banking legislation referring to cross-border operations shall be enforced upon credit institutions from Member States and non-Member States which intend to provide core and non-core investment services in Romania.

Article 3, paragraph (6) from the Capital Market Law stipulates that the National Bank of Romania is responsible for the supervision of the compliance with authorisation and capital adequacy requirements by credit institutions.

South Africa

No

Sri Lanka

Yes, Securities & Exchange Commission of Sri Lanka, Controller of Exchange

Chinese Taipei

No

Thailand

Yes, certain other groups of regulated entities like banks, finance companies, and insurance companies are allowed to carry certain securities businesses such as securities dealing and private fund management. As a result, they are not only subject to their lead regulators, also securities regulator.

However, FMI incorporated outside Thailand has not been licensed to operate in Thailand yet.

Turkey

Yes

Uruguay

No

Vietnam

Yes, they should be under the oversight of State Bank of Vietnam, besides the State Securities Commission, in term of foreign exchange regulation.

12. ***Do you recognize different types/classifications of foreign market intermediaries such as those that operate as seller of securities of foreign issuers generally to designated institutions?***

Yes () No ()

Bulgaria

No

Colombia

No

Egypt

No

Malaysia

No

Malta

Yes

Morocco

No, Foreign intermediaries are subject to the same licensing requirements than local intermediaries. One of the requirements is that they should have their headquarter in Morocco.

Nigeria

No

Oman

No

Pakistan

No

Philippines

No

Poland

No

Romania

Yes. The Capital Market Law distinguishes between intermediaries from Member States and those from non-Member States.

South Africa

No

Sri Lanka

No

Chinese Taipei

No

Thailand

No

Turkey

No

Uruguay

No

Vietnam

No

13. ***Do you provide foreign investors with the same protection as local investors?***
Yes () No ()

Bulgaria

Yes

Colombia

Yes

Egypt

Yes

Malaysia

Yes

Malta

Yes

Morocco

Yes, foreign intermediaries are subject to the same licensing requirements than local intermediaries. One of the requirements is that they should have their headquarter in Morocco

Nigeria

Yes

Oman

Yes

Pakistan

Yes

Philippines

Yes

Poland

Yes

Romania

Yes

South Africa

Yes

Sri Lanka

Yes

Chinese Taipei

Yes

Thailand

Yes

Turkey

Yes

Uganda

Yes. Under *Section 5 of the CMAA*, investor interests are protected, be it local or foreign investors.

Uruguay

Yes

Vietnam

Yes

14. ***Is a foreign intermediary required to disclose any significant differences between regulation of foreign facilities, services or products and regulation of comparable local facilities, services or products?*** Yes () No ()

Bulgaria

No

Colombia

No, there is no need for such a requirement because they can not operate in Colombia.

Egypt

No

Malaysia

No

Malta

No

Morocco

No, Foreign intermediaries are subject to the same licensing requirements than local intermediaries. One of the requirements is that they should have their headquarter in Morocco.

Nigeria

No

Oman

No

Pakistan

No

Philippines

Yes

Poland

No

Romania

No

South Africa

No

Sri Lanka

Not Applicable

Chinese Taipei

No

Thailand

No

Turkey

No

Uruguay

No

Vietnam

No

15. ***Are there any special record keeping requirements for a foreign intermediary such as maintaining copies of its record at a location within your jurisdiction or undertake in writing to furnish the records promptly to you upon request?***

Yes () No ()

Bulgaria

No

Colombia

No, there is no need for such a requirement because they can not operate in Colombia.

Egypt

No

Malaysia

Yes

Malta

Yes

Morocco

Yes, foreign intermediaries are subject to the same licensing requirements than local intermediaries. One of the requirements is that they should have their headquarter in Morocco.

Nigeria

Yes

Oman

Yes

Pakistan

No

Philippines

Yes

Poland

No

Romania

No

South Africa

No

Sri Lanka

Yes, if any foreign intermediary is operating in Sri Lanka through the incorporation of a local company or in collaboration with a local company such intermediary will have to comply with all the regulatory requirements specified in the SEC Act as amended such as record keeping, producing any document to the regulator on request etc.

Chinese Taipei

Yes

Thailand

No, Off-shore intermediaries and foreign control on-shore intermediaries are treated the same.

Turkey

No

Uganda

Yes. All market intermediaries, whether local or foreign are required to furnish to the authority a place in the jurisdiction where records are to be kept. Under *Section 9 of the CMAA*, the Authority can request any person to furnish any records to it.

Uruguay

No

Vietnam

Yes

16. ***Do you have both civil and criminal powers to enforce regulations pertaining to foreign market intermediaries?***

Yes () No ()

Bulgaria

No

Colombia

Yes, in case a foreign intermediary operates in Colombia there are civil and criminal powers that penalize this activity.

The Penal Code sanctions with jail any one that engages in the massive and habitual reception of money from the public.

From a civil perspective the Superintendency of Securities may order the closing of any company or juridical person that is operating in securities activities without the legal authorization.

Egypt

Yes

Malaysia

Yes

Malta

Yes

Morocco

Yes, Foreign intermediaries are subject to the same licensing requirements than local intermediaries. One of the requirements is that they should have their headquarter in Morocco.

Nigeria

No

Oman

Yes

Pakistan

No

Philippines

Yes

Poland

Yes

Romania

No

South Africa

No

Sri Lanka

No In terms of the Securities and Exchange Commission of Sri Lanka Act No. 36 of 1987 as amended the Securities and Exchange Commission of Sri Lanka is vested only with criminal powers.

Chinese Taipei

Yes

Thailand

Currently, all securities firms are required to be incorporated under Thai law.

Yes for criminal power. The SEC has the authority to undertake criminal sanctions for violations such as fines as well as criminal prosecution through the Royal Thai Police.

Although the SEC does not have civil power, the SEC can exercise administrative power in various manners such as by requiring that directors of these market intermediaries have to obtain approval from the SEC. Directors having been found to act inappropriately or without regard for their responsibilities could be disqualified from being directors

Turkey

No

Uruguay

Yes

Vietnam

Yes

17. ***Are cross border listings allowed in your jurisdiction?*** ***Yes () No ()***

Bulgaria

Yes

Colombia

Yes

Egypt

Yes

Jordan

Cross border listing allowed in Jordan – one cross border listing at the moment.

Malaysia

Yes

Malta

Yes

Morocco

Yes

Nigeria

Yes

Oman

Yes

Pakistan

Yes

Philippines

No

Poland

Yes

Romania

Yes

South Africa

Yes

Sri Lanka

No

Chinese Taipei

Yes

Thailand

Baht bonds issued by supranational corporations and JBIC, as well as bonds issued under the Asian Bond Initiative, are allowed to seek cross-border listings in Thailand.

In addition, a foreign-branch bank is allowed to issue and seek listings of certain debt instruments (i.e. short-term debentures, bills of exchange, and structured bonds).

Moreover, regulatory relaxation for cross border listings of bonds issued by certain other non-resident institutions such as insurance companies is underway.

In case of equity, Thailand currently does not permit non-residents to list in Thailand.

Turkey

Yes

Uganda

Yes. They are allowed under the Capital Markets (Cross Border Introduction) Regulations.

Uruguay

Yes

Vietnam

There is not any relevant regulation.

18. ***If answer to 14 is yes, are there any rules/ regulations for regulating cross border listings in your jurisdiction?***

Yes () No ()

Colombia

Yes

Superintendencia de Valores. Resolution 400 of 1995

Section VII

Public Open Offer Emitted By Foreign Governments Or By Foreign Public Entities With Their Government's Guarantee

Art. 1.2.4.64. – Authorization of the public open offer. The public open offer of the documents emitted by foreign Governments or foreign public entities with guarantee of its government can be authorized, as long as they fulfill the following requirements;

1. The securities should be issued to be paid to the to the bearer.
2. In the public market of Securities of the emitting country, the securities of credit content of the Colombian government, or guaranteed by it, should be susceptible to be offered publicly in conditions equivalent to those stated in the Colombian regulations for foreign securities, except in cases in which the Superintendency of Securities (Sala General de la Superintendencia de Valores) expressly authorizes it;
3. The special guarantees made out to back up the emission, should be made effective in Colombia;
4. The general conditions of the emission should contemplate the requirements to which it refers the numeral 6th. of article 1.2.4.65. of this resolution;
5. The documents should make part of a general offer addressed to other public market or markets of securities different from the Colombian market; for this

effect , the securities offered in foreign markets cannot be inferior to twenty per cent (20%) of the total emission;

6. The documents should be, previously to the realization of the public open offer, registered at a Colombian stock exchange or at least at a world-wide known international stock exchange;
7. That an institution with domicile in Colombia be nominated to act as manager of the emission.

Paragraph 1st.- The documents referred in this article, that are registered abroad, will not be susceptible to be negotiated in Colombia before two (2) months from the following working day to the date of its subscription and such circumstance should be evidenced in the securities.

Paragraph 2nd.- The Securities and Exchange Commission (Superintendencia de Valores) should inform the General Court (Sala General) of the Superintendency of Securities on the application for authorization of a public open offer of securities emitted by foreign Governments or by their Government's foreign public companies, previous to their authorization.

Art. 1.2.4.65.- Prospectus of placement. The prospectus of placement should be adjusted to the terms and conditions requested by the international markets for this type of placements and to the content established in article 1.2.2.2. of this resolution; it should also include the following;

1. The information regarding the emitting country, which should contain:
 - 1.1. One chapter on general information, and
 - 1.2. A summary on the recent economic performance, enhancing at least the structure and evolution of the gross domestic product, the international commercial market and the balance of payments, the foreign dept, the public finances and documents of credit content that it might have in circulation, specifying time limit, conditions, securities rating and current state of fulfillment of the obligations.
2. A complete description of the system and procedures corresponding to the placement of the emission, indicating the markets in which it will be negotiated, the placing companies, places where the subscription can be made and stock exchanges in which the securities will be registered;
3. The definition of the legal rules of the securities, with the indication of the competent Court for the exercise of any legal action or proceeding related with the fulfillment and execution of their corresponding duties;
4. A description of the tax system applicable to the securities, as well as the Exchange System and of International Investment (Régimen Cambiario y de Inversiones Internacionales) of its corresponding country;

5. The appointing of the Agents who in Colombia will receive, on account of the issuer and of his corporate assets, notifications of legal actions, and
6. The following safeguard clauses:
 - 6.1. By which it declines in an irrevocable manner to the immunity by sovereignty with respect to any action, lawsuit, proceeding or notifications that might arise due to the placement of securities;
 - 6.2. That for which the rights of holders and the duties of the issuer are equal at least “pari passu” in priority of payment and of guarantee with all other direct external debt of the Issuer not guaranteed and not subordinated, and
 - 6.3. That which establishes the due date of the securities when the non fulfillment in its payment arises or in other emissions of documents of credit content made by the Government or guaranteed by it, that have been placed abroad through a public open offer, or that the external debt has not been attended at least of the two third parts of the debt represented in public emissions of documents of credit content .
7. The admonishment that is referred in the paragraph 1st. of Article 1.2.4.64. of the present resolution.

Paragraph.- The prospect of placement can be made in the language that the commercial practice might demand. However, the copies of the same that might circulate in Colombia, as well as those that have to remain at the National Register of Securities and Intermediaries (Registro Nacional de Valores e Intermediarios), should be object of an official translation into Spanish.

Section VIII

Public Open Offer Of Securities Emitted By Multilateral Organisms Of Credit Or Foreign Companies

Art. 1.2.4.66.- Authorization of the public open offer .- In order to authorize the public open offer of securities emitted in series or in mass by multilateral organisms of credit or foreign entities , that grant their holders rights of credit , of participation and traditions o representative in merchandises, as long as they fulfill the following requirements:

1. When referring to securities of credit content, the same should be to the bearer and should appoint in Colombia an institution with domicile in the country that might act as manager of the emission;
2. The Colombian securities should be susceptible to be publicly offered in the country where the main issuer is domiciled.

3. When the shares are going to be issued, the rights of society that the Colombian investors have, as well as the ones that the foreign investors have in the emitting country should be informed, crediting also, with the authorization of the Superintendency of Securities, of the form in which the Colombian shareholders can exercise their rights.
4. The documents should make part of a general offer oriented towards other public stock exchanges different from the Colombian market; for this effect, the securities offered in foreign markets cannot be inferior to the twenty per cent (20%) of the total emission;
5. The documents should be registered at least in one Colombian stock exchange and one international worldwide known stock exchange, before the open offer takes place, and
6. If that is the case, they should demonstrate that the open offer was duly authorized by a competent organism of control of the corresponding country.

Paragraph 1st.- The documents of credit content referred in this article, and which are registered abroad, are not susceptible to be negotiated in Colombia two months (2) counted from the first working day following the date of subscription. This circumstance should be recorded in the securities title.

Paragraph 2nd.- The Superintendency of Securities (Superintendente de Valores) should inform the General Court (Sala General) of the Superintendency regarding the requests of authorization for a public open offer of securities emitted by multilateral organisms of credit or foreign companies, previous to the authorization.

Art. 1.2.4.67.- Prospectus of placement. The prospectus of placement should be adjusted to the terms and conditions imposed in the international markets for this type of placements and to the content established in article 1.2.2.2. of this resolution; also it should include the following:

1. A detailed description of the system and procedure of the emission's placement, indicating the markets where it is going to be negotiated, the placing companies, place where the subscription can be made and stock exchanges in which the securities will be registered;
2. The definition of the Legal Rules of the securities, with indication of the competent Courts for the exercise of any legal action or procedure relative to the fulfillment and execution of the duties that might be originated from those;
3. A complete description of the system of taxation applicable to the securities, as well as the exchange systems and of international investments rules of its corresponding country in which the issuer is domiciled;
4. The designation of the Agents that they will receive in Colombia on behalf of the emitting party and of their corporate assets, notifying legal actions;

5. The clause of safeguard for which the rights of holders and the duties of the issuer are equal at least “pari passu” in priority of payment and of guarantee with all other direct external debt of the holder represented in securities, not guaranteed and not subordinated, and
6. All others which the Superintendency of Securities (Superintendencia de Valores) might consider important for the fulfillment of the law’s dispositions.

Paragraph 1^o.- The prospect of placement can be made in the language that the commercial practice might demand. However, the copies of the same that might circulate in Colombia, as well as those that have to remain at the National Register of Securities and Intermediaries (Registro Nacional de Valores e Intermediarios), should be object of an official translation into Spanish.

Paragraph 2nd. - In the copies of the prospectus of placement destined for circulation in markets different from the Colombian market, the issuer’s financial information can be presented according to the International practices.

Also the issuer’s financial statements should be audited by a company of a well know prestige and at good judgement of the Superintendency of Securities (Superintendencia de Valores).

Section X

Simultaneous Public Open Offer At The International Markets And The Local Market

Art. 1.2.4.72.- International practices. As long as the legal norms allow it, the Superintendency of Securities (Superintendencia de Valores) can accept the international practices that facilitates the placement of securities, for effects of granting authorization to the simultaneous Colombian public open offer of securities at the international markets and the local markets.

The shares and obligatory convertible bonds in shares, can be offered publicly through a joint offer abroad and in Colombia, as long as the issuing company has his shares registered in three Colombian stock exchanges, event in which part of the offer should be destined to attend the demand of local investors in a proportion not inferior to twenty percent (20%) of the emission.

The local issuers and underwriters that want to place their securities in the country, should let know throughout the country of their intention of placing their securities, in such a way that the local investors are well informed, which any way they will be subject to the international practices due to the method of the offer that is being carried out at the same time abroad.

If there is a difference in percentage of the emission offered in Colombia and the amount that effectively was demanded by the local investors, this difference can be placed in the international market according to the demands presented.

In the cases in which the emission that is being projected to effect is equal or higher than fifty million dollars, the Superintendency of Securities (Superintendencia de Valores) can authorize the decrease of the minimum percentage that should be offered in Colombia.

Also, can only publicly offer abroad the securities of credit content that have obtained from the rating company of well know trajectory, according to concept of the Superintendency of Securities (Superintendencia de Valores), a rating that can not be inferior to the rating that has been given to the Colombian indebtedness, less one general category of risk. However the General Court (Sala General) of the Superintendency of Securities can make the exceptions to this requirement, to public open offer of securities issued in development of a process of securitization.

Notwithstanding the above, the Superintendency of Securities (Superintendencia de Valores) can observe other criteria and point out other requirements that might consider pertinent in the development of the Colombian public market of securities in order to authorize this kind of offers.

Art. 1.2.4.73.- Prospectus of placement. - The companies that want of make a public open offer of securities simultaneously in the International and local markets, can elaborate the prospectus of placement in the language that the commercial practice requires and in according with the legislation of the countries in which the market is going to take place. However, the samples of the same, that will circulate in Colombia, as well as those that will remain at disposal of the National Register of Securities and Intermediaries (Registro Nacional de Valores e Intermediarios), should contain in Spanish the information mentioned in the article 1.2.2.2. of this resolution, such as the special information mentioned in the prospects that is required according to the Colombian dispositions, like the type of security and other aspects relevant for the national investors.

However, in all the prospectus of placement, the admonishment should be included, in enhanced characters, that the inscription at the National Register of Securities and Intermediaries (Registro Nacional de Valores e Intermediarios) and the authorization of the public open offer given by the Superintendency of Securities (Superintendencia de Valores) does not imply that it is a certificate on the goodness of the Securities or the issuer's solvency.

Paragraph.- In the prospectus' copies of placement destined to circulate in the international markets, the financial information of the issuer will not require to be adjusted to the proforma made for that effect by the Superintendency of Securities (Superintendencia de Valores).

One copy of the international prospectus should be sent to the Superintendency of Securities (Superintendencia de Valores) in order to obtain the authorization of the offer. An official translation of the same should be situated at the Superintendency of Securities within fifteen common days following the date in which the resolution, which authorizes the public open offer, has been executed.¹²

¹² This is not an official translation of the Colombian law.

Malaysia

Yes, Clause 7.14 of the Policies and Guidelines on Issue/Offer of Securities prescribes that applicants with substantial foreign-based operations seeking listing on either the Main Board or the Second Board of the KLSE must comply with the following additional criteria:

- (a) There must be no net outflow of funds from the country by the applicant or its subsidiaries arising from the foreign-based operations for a period of three years from the date of submission to the SC; and
- (b) The foreign-based operations must bring benefits to the applicant and to the country.

Clause 7.13 of the Policies and Guidelines on Issue/Offer of Securities prescribes that applicants seeking listing on either the Main Board or the Second Board of the KLSE will be considered as having substantial foreign based operations if the applicant's foreign-based operations constitute 25% or more of the group's–

- (a) net tangible assets; or
 - (b) after-tax profits,
- based on the latest available audited accounts at the point of submission to the SC.

Morocco

An authorization from the Minister of Finance is required.

Nigeria

Yes

Oman

No

Pakistan

No

Philippines

No

Romania

Yes. The upcoming regulation on issuers and securities operation includes provisions regarding cross-border offers made in the Member States by the issuers with registered office in Romania or by non-residents in Romania, in accordance with the Community legislation in force.

South Africa

Yes

Sri Lanka

No

Thailand

N/A

Uganda

Yes. We have the *Capital Markets (Cross Border Introductions) Regulations, 2003*

Vietnam

There is not any relevant regulation.

19. *Whether legislative and enforcement powers are sufficient and effective to tackle cross border violations?*

Yes () No ()

Bulgaria

Yes

Colombia

No, as mentioned earlier no foreign intermediaries are allowed to carry out intermediation activities in Colombia... However, there are loopholes that make difficult to enforce this principle due to the fact that there are not legal entity in Colombia, upon which the Colombian authority may impose sanctions.

Egypt

Yes

Malaysia

Yes; In terms of cross border violations, the SC relies on bilateral arrangements (e.g. MOUs) as well as through specific mutual assistance provisions contained in the relevant laws enforced by other foreign regulators (similar to s150 of the Securities Commission Act provision which empowers the SC to render assistance to a foreign supervisory authority to investigate breaches of legal or regulatory requirement that is enforced by the foreign supervisory authority) to investigate into such violations. In a criminal investigation the SC is also able to resort to the Mutual Assistance in Criminal Matters Act 2002.

Malta

Yes

Morocco

Yes, Through Memorandum of Outstanding

Nigeria

Yes

Oman

Yes

Pakistan

No

Philippines

Yes

Poland

Yes

Romania

Yes.

South Africa

Yes

Sri Lanka

No

Chinese Taipei

Yes

Thailand

In case of inward bound cross border violations, such violations definitely fall upon Thai laws to which Thai authorities have legislative power to enforce. In addition, authorities may also seek for information sharing or other forms of cooperation from overseas jurisdictions where Thai authorities have MOUs or agreements with.

Turkey

No

Uganda

Yes.

Uruguay

No

Vietnam There is not any relevant regulation.

20. ***Do you have the regulatory capacity to assess the nature of cross border transactions and the ability to take action?***

Yes () No ()

Bulgaria

Yes

Colombia

Yes

Egypt

No

Malaysia

Yes

Malta

Yes

Morocco

Yes, Through Memorandum of Outstanding

Nigeria

Yes

Oman

No

Pakistan

No

Philippines

Yes

Poland

Yes

Romania

No

South Africa

Yes

Sri Lanka

Yes, however, the only form of cross border transactions which is effected in Sri Lanka pertaining to the SEC is the investment in the Sri Lankan securities market by foreign entities. As far as those who invest in the Sri Lankan market is concerned the SEC has the ability to take action.

Chinese Taipei

Yes

Thailand

Yes. Please refer to the answer in question 19.

Turkey

No

Uganda

No

Uruguay

No

Vietnam

No

21. *Whether in your opinion you comply with international standards for raising cross-border capital?*

Yes () No ()

Bulgaria

Yes

Colombia

No, Colombia has not issued regulation of remote cross-border financial intermediaries in order to meet IOSCO recommendations prepared by the technical committee in February 2004.

Egypt

Yes

Malaysia

As a member of IOSCO, the SC participates in the international standards setting process, and benchmarks its regulatory framework and market processes against the relevant international standards. [If this question relates to a specific international standard, please specify the international standard in question in order for respondents to better understand the question]

Malta

Yes

Morocco

Yes

Nigeria

Yes

Oman

Yes

Pakistan

No

Philippines

Yes

Poland

Yes

South Africa

Yes

Sri Lanka

No

Chinese Taipei

Yes

Thailand

Yes

Turkey

No

Uruguay

Yes

Vietnam

No

22. **Do you have a system of educating investor on cross-border transactions?**

Yes () No ()

Bulgaria

No

Colombia

No

Egypt

No

Malaysia

Yes; The SC's training arm, the Securities Industry Development Centre, conducts training and awareness programs for the public on diverse issues.

Malta

No

Morocco

No

Nigeria

Yes

Oman

Yes

Pakistan

No

Philippines

No

Poland

No

Romania

No

South Africa

No

Sri Lanka

No

Chinese Taipei

Yes

Thailand

Thailand Securities Institute, the arm length of the Stock Exchange of Thailand, organizes regular trainings for market participants and investors which touch upon cross-border transactions and their effects.

Turkey

No

Uruguay

No

Vietnam

No

23. **Do you have any requirements concerning where client assets must be held?**
Yes () No ()

Bulgaria

Yes

Colombia

Yes, Foreign portfolio investment must be held by a local administrator (Trust companies and securities firms)

Egypt

Yes

Malaysia

Yes, Section 47C(10) of the SIA.

Malta

Yes

Morocco

No

Nigeria

No

Oman

No

Pakistan

Yes

Philippines

Yes

Poland

No

Romania

Yes

South Africa

Yes

Sri Lanka

No

Chinese Taipei

Yes

Thailand

Yes, We have the segregation of clients' assets rules and rules governing custodians' s businesses.

Turkey

Yes

Uruguay

Vietnam

Yes

Outward bound

24. *Are there controls influencing capital movements or foreign exchange restrictions on the following:*

(a) outward direct investment (purchase of shares abroad by residents)

Yes () No ()

(b) liquidation of outward direct investment (sale of shares abroad by residents)
Yes () No ()

If yes, please specify.

Bulgaria

Yes both for (a) and (b).

Colombia

No both for (a) and (b)

Malaysia

Yes both for (a) and (b).

Resident-individuals are free to invest in any foreign assets, including those offered by onshore licensed banks if they comply with all the following requirements:

- Individual is employed or staying abroad
- Have foreign funds sourced from abroad
- No conversion from ringgit

Malta

Yes both for (a) and (b). Investors have to notify Exchange Control, Central Bank

Morocco

(a) yes, (b) no.

Nigeria

No both for (a) and (b)

Oman

No both for (a) and (b).

Pakistan

(a) Yes, purchase abroad of shares or other securities of a participating nature by residents requires approval of State Bank of Pakistan (SBP). However purchase of bonds and other debt securities are not permitted.

(b) Yes, residents may sell or issue securities abroad after obtaining approval from SECP under Section 62-A of the Companies Ordinance 1984.

Philippines

No both for (a) and (b)

Poland

No both for (a) and (b).

Romania

No both for (a) and (b).

South Africa

Yes both for (a) and (b).

Sri Lanka

Yes both for (a) and (b). In terms of the Exchange Control Laws applicable in Sri Lanka local residents are not permitted to invest in shares abroad without obtaining the prior approval of the Controller of Exchange.

Chinese Taipei

No both for (a) and (b)

Thailand

(a) yes - more than 10 million USD (or equivalent) per year needs approval from the Bank of Thailand. (b) No

Turkey

No both for (a) and (b)

Uganda

Yes. *Section 10(2) of the Exchange Control Act* provides that except with the permission of the minister, a security not registered in Uganda shall not be transferred outside Uganda if either the transferor or the transferee is resident in Uganda.

Uruguay

No both for (a) and (b).

Vietnam

(a) yes-The portfolio investment to abroad shall be under the control of Regulation on Foreign Exchange Restriction of the State Bank of Vietnam. (b) No.

25. ***Is there control on investment related receipts such as repatriation of dividend by residents?***

Yes () No ()

Bulgaria

No

Colombia

No, the only requirement is that these operations must be registered with the Central Bank.

Egypt

No

Malta

Yes

Morocco

Yes

Nigeria

No

Oman

No

Pakistan

Yes

Philippines

No

Poland

No

Romania

No

South Africa

Yes

Sri Lanka

Not applicable.(However, in terms of the Exchange Control laws applicable in Sri Lanka investment in shares in Sri Lanka and repatriation of proceeds by non-residents should take place only through Share Investment External Rupee Accounts (SIERA) opened with commercial banks. The repatriation of proceeds rising out of investments made after 5th June 1990, are not subject to Exchange Control Regulations.)

Chinese Taipei

No

Thailand

No

Turkey

Yes

Uruguay

No

Vietnam

There is not any relevant regulation.

26. ***Are there following control provisions specific to institutional investors such as insurance companies and pension funds:***

(a) maximum limits on the securities issued by residents abroad Yes () No ()

(b) maximum limits on portfolio invested abroad

Yes () No ()

Please specify any other control provision applicable.

Bulgaria

Yes both for (a) and (b)

Colombia

No for (a) and yes for (b) Pension funds have a 20% limit.
Insurance Companies have a 30 % limit.

Egypt

No for both

Malaysia

Yes for (b)

Investments abroad by Residents

To provide greater flexibility in the management of funds, selected domestic institutions and residents are allowed to invest abroad within the following framework:

(a) Unit trust management companies may invest abroad the full amount of Net Asset Value (NAV) attributed to non-residents and up to 10% of the NAV per fund attributed to residents. Different funds of a unit trust management company or funds of different companies may be pooled to benefit from economies of scale when investing abroad. Such investments are required to be in line with the Securities Commission's prudential guidelines.

(b) Insurance companies and takaful operators may also invest abroad up to 5% of their Margin of Solvency and up to 5% of total assets respectively. Insurance companies and takaful operators may also invest abroad up to 10% of the NAV on investment-linked funds that they market. These investments are required to comply with prudential insurance and takaful regulations issued by Bank Negara Malaysia.

(c) Fund/asset managers may invest abroad up to the full amount of investments by their non-resident clients and up to 10% of investments by resident clients. The funds by different companies may be pooled to benefit from economies of scale when investing abroad and should be based on the mandate of their clients and in compliance with the Securities Commission's prudential guidelines.

(d) Resident individuals employed or staying abroad with own foreign currency funds may invest in any foreign currency assets, including those offered by onshore licensed banks and licensed offshore banks in Labuan. Resident individuals in Malaysia who have foreign currency funds may only invest in any foreign currency products offered by onshore licensed banks.

Morocco

No for (a) yes for (b) 5% for insurance companies.

Nigeria

No for both

Oman

Yes both for (a) and (b).

Pakistan

No for both

Philippines

No for both

Poland

No for (a) and no for (b) – except for pension funds.

Romania

No for both (a) and (b)

South Africa

Yes both for (a) and (b)

Sri Lanka

Yes both for (a) and (b). In terms of Section 25 (3) of the Regulation of Insurance Industry Act, No. 43 of 2000 all assets of a reserve or a Fund being maintained by an insurer and all other assets are required to be kept in Sri Lanka.

Chinese Taipei

No for both (a) and (b)

Thailand

Yes both for (a) and (b). Insurance companies can invest in bonds issued by foreign government and quasi-government, but an approval from the Insurance Department is needed on a case-by-case basis.

Government pension fund are allowed to invest in foreign currency bonds issued by Thai government abroad with a condition to fully swap into Thai baht. Nonetheless, an approval from the government pension fund board is required. The board also sets guideline for investment in securities issued by non-residents including a limit of 10% of the fund's total assets. So far the fund has invested in foreign securities through foreign investment funds.

Turkey

The answers below are valid for private pension funds. Regarding insurance companies and public pension funds, Undersecretariat of Treasury and Ministry of Labor and Social Security should be contacted respectively.

(a) No, securities issued by residents abroad are considered as domestic securities. Therefore only general rules that limit the amount which can be invested in securities of a single issuer are relevant for private pension funds.

(b) Yes, in our jurisdiction private pension funds are classified according to their asset allocation strategy and if the pension fund is founded as Foreign Securities Pension Fund, it can freely invest in foreign securities without a maximum limit except general rules that limit the amount which can be invested in securities of a single issuer.

Uruguay

No for (a) yes for (b)

Vietnam

There is not any relevant regulation.

27. ***Are foreign exchange accounts permitted to be held abroad by residents?***
Yes () No ()

Bulgaria

Yes

Colombia

Yes

Egypt

Yes

Jordan

Residents allowed to have foreign exchange accounts abroad.

Romania

Yes

Malaysia

Yes residents are allowed to open Foreign Current Account for education and employment overseas subject to the following overnight limits:

- USD150,000 with licensed banks
- USD150,000 with Labuan banks
-
- USD50,000 with overseas banks

Malta

Yes

Morocco

No

Nigeria

Yes

Pakistan

Yes

Philippines

Yes

Poland

Yes

Romania

Yes

South Africa

Yes

Sri Lanka

No

Thailand

Yes, but money transfer to the accounts abroad required approval from the BOT

Chinese Taipei

Yes

Turkey

Yes

Uganda

No. However, a resident can hold such an account with the permission of the minister. *Section 6(c) of the Exchange Control Act* provides that except with the permission of the minister, no person shall open an account outside Uganda or make payments to such account held by a person resident in Uganda.

Uruguay

Yes

Vietnam

Yes, in some certain cases.

28. ***Are domestic market intermediaries in your jurisdiction allowed to undertake cross border transactions in other foreign jurisdiction? Yes () No ()***

Bulgaria

Yes

Colombia

No

Egypt

Yes

Malaysia

Yes

Malta

Yes, in principle subject to specific authority and subject to EU and EEA mutual recognition arrangements.

Morocco

Yes

Nigeria

Yes

Oman

Yes

Pakistan

No

Philippines

Yes

Poland

Yes

Romania

Yes

South Africa

Yes

Sri Lanka

No

Thailand

There is no restriction imposed by the SEC. However, such market intermediary needs to seek permission from the Bank of Thailand for capital movement, which is granted on a case-by-case basis

Chinese Taipei

Yes

Turkey

Yes

Uruguay

Yes

Vietnam

No

29. ***In case domestic market intermediaries in your jurisdiction are allowed to undertake cross border transaction in foreign jurisdictions; then are they subjected to any special requirements? Please specify.***

Bulgaria

Domestic market intermediaries are not subjected to any special requirements

Egypt

No they are not.

Malaysia

The local intermediary, in addition to being subjected to the legal framework of that foreign jurisdiction, will be subject to the Malaysian securities laws.

Malta

Subject to (i) EU and EEA mutual recognition arrangements;
(ii) fit and proper test; and
(iii) acceptance by the foreign jurisdiction

Morocco

No special requirements.

Nigeria

No, they are not subjected to any special requirements

Oman

No

Pakistan

No domestic intermediary is presently engaged in cross border transactions in foreign jurisdiction.

Philippines

Yes. The Laws of the country where they operate/transact.

Romania

A domestic market intermediary may provide investment services in a **Member State** as follows:

- until Romania joins the EU: on the basis of a cooperation agreement
- after the accession: on the basis of mutual recognition.

Also, a local market intermediary may provide investment services in a non-Member State, based on the authorization granted by the Romanian National Securities Commission. In this respect, specific regulations will be issued.

South Africa

Yes, Domestic market intermediaries must comply with the exchange control regulations of the SARB.

Sri Lanka

Not applicable.

Chinese Taipei

A securities firm established under the Standards Governing the Establishment of Securities Firms may apply for the establishment of a foreign branch office upon the completion of three-year operation. Besides, a securities firm applying for the establishment of a foreign branch office shall meet the requirements where a stock exchange operates and has competent authority in the foreign jurisdiction as promulgated by the SFC.

Thailand

In the case of commercial banks, they are allowed to freely undertake cross boarder transaction providing that they comply with BoT's prudential regulations for instance with respect to their net open FX positions.

In the case of mutual funds, selected mutual funds have been allowed to invest in securities abroad, within the allotted limit of not more than 200 million USD. In 2003, our policies have been relaxed further and allow 6 types of institutional investor (i.e. life insurance companies, Government Pension Fund, Social Security Fund, mutual funds (excluding private funds), provident funds and specialized financial institutions) to apply for permission to invest in the following securities: 1) Debt securities issued prior to January 1, 2003 by Thai government, state enterprises, commercial banks, specialized financial institutions and corporate; and 2) Sovereign or quasi-sovereign debt securities issued by non-residents ranked by international credit rating agencies as investment grade.

Turkey

According to article 31 of the Communiqué Serial: V, No:46, a brokerage house that wants to establish agencies with authorized foreign institutions or foreign branches of banks must apply to the Board with a document from the competent authority proving that the brokerage house or the branch of the bank party to the agency contract has been certified by the competent authority of the pertinent country.

Uruguay

No, they have the same requirements.

Vietnam

30. ***Are adequate rights and remedies available to local investors who access foreign facilities, services or products?*** ***Yes () No ()***

Bulgaria

Yes

Colombia

No, this issue is not regulated by Colombian Law.

Egypt

Yes

Malaysia

Investors who invest abroad are subject to the regulatory framework and compensatory framework of the particular foreign jurisdiction in question. The SC advises and alerts domestic investors regarding any fraudulent foreign securities operators through its Investor Alert program as well as its awareness and education programs through the Securities Industry Development Centre. In addition, the SC is able to assist domestic investors in the case of any loss caused by misleading or manipulative conduct by foreign service providers by way of alerting and cooperating with the relevant foreign regulatory authority.

Malta

If service's products offered locally then it depends (i) on level of regulation of the foreign jurisdiction; (ii) on type of product; and (iii) type of investors.

Morocco

No

Nigeria

No

Oman

Yes

Pakistan

No

Philippines

No

Poland

Yes

Romania

Yes

South Africa

Yes

Sri Lanka

Not applicable.

Chinese Taipei

No

Thailand

If the soliciting does occur in Thailand, those who do solicit are subject to Thai laws and required to register with the SEC. Consequently, the investors will be protected under the same rights and remedies as those investors investing domestically.

But if investors access foreign markets by themselves without soliciting from abroad, the Thai laws do not govern. Instead, their rights and remedies will rely on the host country regulations. However, there are certain jurisdictions that Thailand has signed MOU with for the purpose of information sharing, enforcement and cooperation. This can facilitate those investors somehow.

Turkey

Yes, Local investors can trade in foreign markets via branches, liaison offices or agencies of local market intermediaries. Branches and liaison offices, whether located in our jurisdiction or abroad, will be under supervision of CMB. Moreover, market intermediaries can sign contract with foreign intermediary institutions that have certificates of authorization from the competent authority of the related country

Uruguay

No

Vietnam

No

III. International Regulatory Cooperation and Detection

1. Are foreign market intermediaries in your jurisdiction offering their services to domestic investors:

- (a) physically*** ()
- (b) electronically/ internet*** ()

Bulgaria

There is no foreign market intermediary in our jurisdiction offering their services to domestic investors.

Colombia

Securities transactions in Colombia may be carried out on the Internet, provided that they meet all the requirements stipulated in current legislation. It should nevertheless be stressed that public securities market transactions should be carried out through intermediaries who are registered in the NRSI and therefore there should be Colombian legal entities.

Egypt

(a) Yes if they are licensed (b) yes

Jordan

Cross border listing allowed in Jordan – one cross border listing at the moment.

Malaysia

(a)

Malta

(c) difficult to monitor but if detected action is taken to stop unless activity is authorized (see Section I 4 & 5)

Morocco

No. Only intermediaries that have their headquarter in Morocco are allowed to trade in Morocco Stock Exchange

Nigeria

Both (a) and (b)

Oman

Both (a) and (b)

Pakistan

No

Philippines

Both (a) and (b)

Poland

(a) No and (b) data not available

Romania

Both (a) and (b) Please see the response to Section II, point 6.

South Africa

Both (a) and (b)

Sri Lanka

No foreign market intermediaries are operating in our jurisdiction if classified by incorporation (For a foreign market intermediary to operate in our jurisdiction it has to form a local subsidiary and register with the Registrar of Companies in terms of the Companies Act No 17 of 1982 or has to form a company in collaboration with a local company)

Chinese Taipei

Both (a) and (b)

Thailand

N/A

Any person carries securities business in Thailand must hold a securities license. FMI incorporated outside Thailand has not been licensed to operate in Thailand yet.

Turkey
(a) physically

Uruguay
Both (a) and (b)

Vietnam
(a) yes

2. ***In case foreign market intermediaries are offering their services to local investors in your jurisdiction, then whether systems are in place to monitor such activities?***

Yes () No ()

Bulgaria
Yes

Colombia
No

Egypt
Yes

Malaysia
Yes

Malta
No

Morocco
No

Nigeria
Yes

Oman
Yes

Pakistan
N/A

Philippines
Yes

Romania
Yes

South Africa
Yes the activities of members of licensed exchanges are closely monitored.

Sri Lanka

Yes, however, if a foreign market intermediary incorporates a company in Sri Lanka and offers services to local investors through such local company the activities of such company will fall within the regulatory purview of the SEC.

Chinese Taipei

Yes

Thailand

N/A.

FMI incorporated outside Thailand has not been licensed to operate in Thailand yet.

Turkey

No

Uruguay

No

Vietnam

Yes

3. ***If answer to 2 is yes, specify the applicable laws (e.g. securities law, telecom law, etc).***

Bulgaria

Financial Supervision Act, Law on Public Offering of Securities, Bank Law and the secondary legislation on their application;

Egypt

Capital Market Law no. 95 for 1992.

Malaysia

Pursuant to the **SIA** and the **FIA**, all market intermediaries are required to be licensed in order to carry on a business in the securities and futures markets respectively.

Morocco

N.A

Nigeria

Investments and Securities Act (ISA) No 45 of 1999, SEC Rules and Regulations

Oman

Capital Market law, Communication law, Civil law, Immigration law, Investment Law, Foreign Investment.

Pakistan

N/A

Philippines

Philippine Securities Regulation Code (Republic Act 8799), more specifically Sec. 28, which states: “*Registration of Brokers, Dealers, Salesmen and Associated Persons. 28.1. No person shall engage in the business of buying and selling securities in the Philippines as a broker or dealer, or act as a salesman, or an associated person of any broker or dealer unless registered as such with the Commission.*”

Romania

The Capital Market Law

South Africa

Securities laws

Sri Lanka

Securities & Exchange Commission of Sri Lanka Act No.36 of 1987 as amended.

Chinese Taipei

The Securities and Exchange law

Thailand

Securities law.

Vietnam

Decree on Securities and Securities market

4. ***Do you have any authority to monitor the activities of foreign market intermediaries offering their services to local investors in your jurisdiction with respect to:***

- | | |
|--|----------------|
| (a) information from such intermediaries | Yes () No () |
| (b) inspection of their books and records | Yes () No () |
| (c) penal provisions in case of misconduct | Yes () No () |
| (d) impose any special/additional requirements | Yes () No () |

If yes in (d) above, please specify.

Bulgaria

Yes for (a), (b) and (c)

Colombia

No for (a), (b) and (c)

Egypt

(a), (b) and (c)

Malaysia

Yes for (a), (b) and (c)

Malta

Yes for all .If services are carried out in Malta – to varying degrees and depending on type of entity

(d) Mainly relating to advertising and reporting arrangements..

Morocco

No for all

Nigeria

Yes for all

Oman

No for (a), (b) and (c)

Pakistan

N.A

Philippines

Yes for all

Poland

Yes for (a), (b) and (c) and No for (d)

Romania

Yes for (a) and (b) and No for (c) and (d)

South Africa

Yes for all

Sri Lanka

Yes for all.. However, these requirements will apply only if the foreign market intermediary incorporates a Sri Lankan Company in terms of the Companies Act No.17 of 1982 or such foreign companies have a shareholding in local market intermediaries. That is the only possible way in which a foreign market intermediary is permitted to operate in Sri Lanka.

In terms of section 53 of the SEC Act No.36 of 1987 as amended, the SEC is vested with the power to formulate rules pertaining to the capital requirements, staff qualifications, record keeping and other documentation systems to be followed by licensed stock brokers, stock dealers and registered market intermediaries [53 (h)], the form and contents of advertisements proposed to be issued by licensed stock brokers, stock dealers and registered market intermediaries [53 (i)], and the business affairs and activities of registered market intermediaries in relation to listed securities[53 (k)]

Chinese Taipei

Yes for (a), (b) and (c) and No for (d)

Thailand

Yes for (a), (b),(c) and (d)

Anyone who wishes to offer securities business in Thailand is required to obtain a license. Currently, no FMI has been granted a license to operate securities business in Thailand.

Example for (d) is a requirement for management of securities firms to seek approval from the SEC.

Turkey

Yes for (a), (b) and (c)

Uganda

Yes for all

Uruguay

Yes for (a), (b) and (c) and No for (d)

Vietnam

Yes for all

5. ***Do you have any formal arrangement of sharing information (such as a bilateral or a multilateral Memorandum of Understanding (MOU)) with the jurisdiction(s) whose financial intermediaries are operating in your jurisdiction?***

Yes () No ()

Bulgaria

Yes

Colombia

No

Egypt

Yes

Malaysia

Yes

Malta

Yes

Morocco

No

Nigeria

Yes

Oman

No

Pakistan

SECP has signed an MOU for information sharing and joint investigations with Securities Commission of Sri Lanka, however, no financial intermediaries from either jurisdiction offers its services in other jurisdiction.

Philippines

Yes

Poland

Yes

Romania

Not Applicable

South Africa

Yes

Sri Lanka

The above question cannot be dealt with a 'yes' or 'no' answer. At present there are no 100% foreign owned local market intermediaries operating in Sri Lanka. However, the Securities & Exchange Commission of Sri Lanka has entered into MOUs with several foreign jurisdictions. The SEC is also a party to the IOSCO Multilateral Memorandum of Understanding.

Chinese Taipei

Yes

Thailand

N/A.

FMI incorporated outside Thailand has not been licensed to operate in Thailand yet.

Turkey

Yes

Uruguay

No

Vietnam

No

6. ***Please identify the number of jurisdictions with whom you have signed a bilateral MOU for the purpose of information sharing, coordination and enforcement?***

Bulgaria

7

Colombia

None

Egypt

Nine bilateral MOUs.

Jordan

3 bilateral MOU's have been signed regarding coordination in information sharing and enforcement.

Malaysia

The SC has signed a total of 21 MOUs with its foreign regulatory counterparts.

Malta

MoUs have been concluded with Germany, Gibraltar, Guernsey, Isle of Man, Mauritius, Portugal, Turkey and the United Kingdom. Malta has also entered into information sharing agreements with Italy (CONSOB) and with Switzerland, via an exchange of letters."

Morocco

Two but there is no intermediary from these jurisdictions that is operating in local market.

Nigeria

Two (2)

Oman

One and two under process.

Pakistan

One

Philippines

BAPEPAM of Indonesia.

Poland

21 (twenty one bilateral MoUs).

Romania

The Romanian National Securities Commission has signed 17 Memoranda of Understanding on the exchange of information

South Africa

41 jurisdictions. There're 19 jurisdictions we have signed bilateral MOUs with.

Sri Lanka

Seven. The SEC, Sri Lanka has entered into MOUs with the securities markets/financial regulators in India, Pakistan, Thailand, Malaysia, Indonesia, Australia and New Zealand.

Thailand

10 jurisdictions.

Turkey
12 jurisdictions.

Uruguay
None

7. ***Please identify the number of multilateral MOU that you have signed for the purpose of information sharing, coordination and enforcement?***

Bulgaria
There are negotiations for signing multilateral MOU.

Colombia
None

Egypt
Two multilateral MOUs.

Malta
CESR and committed to enter the IOSCO MOU

Morocco
Zero

Nigeria
None (IOSCO MMOU being processed)

Oman
Malaysian Authority. Jordan and Egypt under process.

Pakistan
None

Philippines
One

Poland
2 (two multilateral MoUs).

Romania
Romania plans to apply for becoming signatory of the IOSCO MMOU once the secondary legislation for the enforcement of the Capital Market Law is completed and adopted; it has been identified the need to review the coordination between relevant financial law in Romania in order to ensure that there is an adequate framework for the exchange of information in terms of the MMOU.

South Africa
2 multilateral MOU's, i.e. the IOSCO MMOU and the SADC MMOU

Sri Lanka

One. IOSCO Multilateral Memorandum of Understanding.

Chinese Taipei

None

Thailand

We have requested for an assistance under the IOSCO MMOU Assistance Program. We are planning to apply to become signatory to the IOSCO MMOU in year 2005. At the same time, we are going to propose an amendment to the securities law to allow us to share information up to the standard demanded in IOSCO MMOU.

Turkey

1 (IOSCO MMoU)

Uruguay

None

8. ***If answer to 5 is yes, then is there an arrangement for coordination in case any change in laws/rules/regulations in either or both jurisdictions occurs?***

Yes () No ()

If yes, please elaborate the arrangements.

Bulgaria

No

Colombia

No

Egypt: Yes.

1. The Authorities agree to inform each other on any development in the laws and regulations affecting the scope of the MOU, and to consult each other on a periodic basis and whenever necessary.
2. The Authorities will keep the operation of the MOU under continuous review and will consult each other with a view to improving its operation and resolving any matters which may arise. In particular the Authorities should consult each other in case of:
 - a) refusal to provide assistance;
 - b) disagreement on the use of the information provided;
 - c) significant change in the economic situation or the legal provisions which, for the achievement of the Memorandum, requires a change in its contents.
3. The Authorities may agree on such further arrangements of a practical nature as may be necessary to facilitate the implementation of the MOU.
4. In any case of dispute over the interpretation of the MOU, the Authorities will consult each other with a view to reaching a mutually acceptable interpretation.

Malaysia

Yes, the MOUs typically provide for a process of consultation between the authorities in instances where any change in laws or regulations affect the cooperative framework set out in the MOUs.

Nigeria

Yes. Section 9 (c) of the MOU provides that the Authorities may consult each other about and revise the terms of the memorandum in the event of a substantial change in laws and regulations, practice, conditions and any other matter affecting other operations.

Pakistan

Yes, Clause 10.2 of the MOU states that the Authorities may consult and may revise the terms of MOU in the event of a substantial change in laws, practices, market or business conditions affecting the operation of the MOU.

Philippines

Yes, Article III, *Scope of Assistance* of the Memorandum of Understanding between the Capital Market Supervisory Agency of Indonesia (BAPEPAM) and The Philippine Securities and Exchange Commission, states:

- 1) The Authorities agree to provide each other the fullest assistance and cooperation under this Memorandum of Understanding, in order to facilitate the exchange of relevant information between such Authorities relating to facts in connection with inquiries, examinations, investigations or any enforcement action to determine whether any person has violated the laws or regulations of the State of the Requesting Authority. For that purpose, they agree to provide access to public and confidential information in their files.
- 2) In order to comply with any request for assistance relating to issuers, investor or professionals carrying out operations on the securities markets, as well as any person likely to have information in connection with the facts contemplated by the request, the requested Authority shall use all its powers and means according to procedures provided under the law of the requested State.

Romania

Not applicable

South Africa

Yes, According to the content of the MOU's entered into, provision is made whereby if there are any regulatory changes then such changes must be communicated to the respective jurisdiction.

Sri Lanka

The SEC, Sri Lanka has entered into MOUs with seven foreign regulators and there are provisions specific to each individual MOU.

Chinese Taipei

No

Thailand

N/A

Turkey

Yes, the Authorities may consult and revise the terms of the MoU in the event of a substantial change in the laws, regulations, or practices affecting the operation of the MoU

9. ***Does the information sharing/cooperation mechanism (if any) with other jurisdictions permit cross-border inspections?***

Yes () No ()

Bulgaria

Yes

Colombia

No

Egypt

No

Malaysia

Yes, to the extent permitted by the domestic laws of each jurisdiction.

Malta

Yes

Morocco

No

Nigeria

Yes

Oman

No

Pakistan

No

Philippines

No

Poland

No

Romania

No

South Africa

Yes

Sri Lanka

No

Thailand

Under the SEC Act, if requests for assistance from foreign authority involve information not in possession of the SEC, the SEC has no power to compel testimony or demand production of any documents from any person, unless the subject person gives voluntary cooperation. However, we can resort to informal persuasion for our regulated entities to provide information to foreign authorities to assist with their investigations. Unfortunately, the regulated entities are not protected from legal actions from their customers or from parties deemed to have been prejudiced by such actions. Therefore, to guard against this risk, we are considering the possibility of amending our business conduct rules on “know your client” and “customer identification” to ensure that our regulated entities are not, by any chance, assisting their clients in any violation of laws in foreign jurisdictions, so that where a violation of foreign laws is suspected, we can have the power to demand information from our securities companies and forward it to foreign authorities ourselves.

Turkey

No, assistance available under this MoU may include conducting compliance inspections or examinations of investment services providers and regulated markets.

Uruguay

No

Vietnam

No

10. In case you have any arrangement of sharing information with other jurisdiction, what has been your experience in getting timely information?

- (a) very effective ()
- (b) not effective¹³ ()
- (c) not applicable¹⁴ ()

Bulgaria

(c)

Egypt

(c)

¹³ The response may be validated by supporting data such as number of requests for information sharing made and outcome of such requests.

¹⁴ This option should be used if there is an information sharing agreement but such a mechanism has never been used.

Malaysia

(a)

Malta

Generally good but inconsistent

Morocco

(c)

Nigeria

(a)

Oman

(c)

Romania

(a)

Pakistan

(c) So far such cases have not arisen wherein information was needed to be acquired or joint investigation was needed to be initiated.

Philippines

(a)

South Africa

(c)

Sri Lanka

(c) There were instances in the past that the Investigations Division of the SEC had to obtain information pertaining to certain investigations from entities incorporated in British Virgin Islands and Mauritius. However no MOUs have been entered into with the Securities Market/Financial Regulators of the said jurisdictions and the said jurisdictions have also not become members of the IOSCO Multilateral MOU.

Chinese Taipei

(b)

Thailand

(a)

Turkey

(b)

Uruguay

(e)

11. ***How do you regulate the activities of local market intermediaries operating outside your jurisdiction?***

(a) Do they require a No Objection Certificate from the relevant regulator (e.g. Securities Commission, Stock Exchange etc.)?

Yes () No ()

Bulgaria

Yes

Colombia

No

Egypt

Yes

Malaysia

No requirement imposed.

Malta

Yes

Morocco

No

Nigeria

No

Oman

Yes

Pakistan

N.A

Philippines

No

Poland

No

Romania

No

South Africa

No

Sri Lanka

Not Applicable. The SEC is regulating only the activities of local market intermediaries, which are operating within the territory of Sri Lanka.

Chinese Taipei

No

Thailand

N/A

There is no local market intermediary operating outside the jurisdiction.

Turkey

Yes

Uruguay

No

(b) Are there any additional conditions (e.g. extra guarantees, enhanced capital adequacy requirements?)

Yes () No ()

Bulgaria

No

Colombia

No

Egypt

Yes

Malaysia

Not applicable

Malta

No

Morocco

No

Nigeria

No

Oman

Yes

Pakistan

N.A

Philippines

No

Poland

No

Romania

No

South Africa

No

Sri Lanka

Not Applicable

Chinese Taipei

Yes

Thailand

There is no local market intermediary operating outside the jurisdiction.

Turkey

No

Uruguay

No

12. **Have there been any cases of cross border fraud, market manipulation or insider trading in your jurisdiction?**

Yes () No ()

Bulgaria

Yes

Colombia

No

Egypt

No

Malaysia

Yes, we have initiated criminal prosecution for a cross border securities fraud case where Middle Eastern investors were defrauded through a scheme in Malaysia and there are several ongoing investigations on cross border fraud and market manipulation.

Malta

One currently being investigated at the request of a foreign regulator.

Morocco

No

Nigeria

No

Oman

Yes

Pakistan

Yes, In Pakistan it was discovered that not foreign intermediaries themselves but their Pakistani customers were engaged in doing business not only on their own account but soliciting business from other customers. SECP has initiated action against such persons under local laws.

Philippines

Poland

Yes

Romania

No

South Africa

Yes

Sri Lanka

Yes

Chinese Taipei

Yes

Thailand

Yes, there was a case of boiler room operation where foreign customers placed fraudulent orders from overseas for Thai stocks through a company situated in Thailand that was not licensed to operate securities business. The SEC had filed the case to the police.

Turkey

Yes

Uruguay

No

Vietnam

No

ANNEXURE III

List of Respondent Jurisdictions to the Survey:

1. Bulgaria
2. Colombia
3. Egypt
4. Jordan
5. Malaysia
6. Malta
7. Morocco
8. Nigeria
9. Oman
10. Pakistan
11. Philippines
12. Poland
13. Romania
14. South Africa
15. Sri Lanka
16. Chinese Taipei
17. Thailand
18. Turkey
19. Uganda
20. Uruguay
21. Vietnam

ANNEXURE IV

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