

REMARKS FOR IOSCO BEIJING

I would like to offer my thanks, and those of my colleagues at the U.S. Securities and Exchange Commission, to Chairman Guo and the staff of the CSRC for hosting such an extraordinary event. We have many critical global issues on the agenda and I know that your hospitality, and the exceptional music we heard last night, has honed the ability of all of us here to focus on our mission and to redouble our efforts to reach answers to the thorny questions before us.

I also would like to offer our thanks to Maria Helena for your exemplary leadership of IOSCO's Executive Committee and your steadfastness and integrity. And, to the IOSCO Secretariat, both for your work in making this conference happen and for everything you do on a daily basis to advance the cooperation, coordination and cohesion IOSCO is intended to further.

As most of you know, our Chairman Mary Schapiro was slated to be with you today. She has asked me to send her heartfelt apologies for the fact that serious domestic business required her to stay at home because she couldn't be out of touch for the hours of flying time necessary to reach this beautiful and historic city.

I am extremely pleased to be able to stand in for Mary today and to deliver her remarks. My thanks go to the CSRC for asking me to substitute for our irreplaceable Chairman today.

While per SEC policy I ask that everyone note that my remarks today represent my own views and do not necessarily reflect the views of other Commissioners or the Commission, I plan to do my best to give voice to the sentiments of Chairman Schapiro, which I wholeheartedly share.

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This panel is titled the "New Financial Architecture" and one of the points to be discussed is "the importance of cross-border

(enforcement) cooperation,” particularly in light of the recent financial crisis. I would like to direct my remarks to that point and highlight the importance of this concept. However, in doing so, I want to suggest a change, because enforcement cooperation is only part of the cooperation across borders that is critical to the new financial architecture. Enforcement cooperation was the necessary first step. But now we have to prepare ourselves for the next crucial step – supervisory cooperation.

The past 30 years have taught the world of financial regulators several things.

First, for a market to grow, it must have interconnections. To ~~have~~ trade, you ^{must have} ~~need connections~~ between trading partners. To have a financial market, you need connections among market participants – investors, issuers, market intermediaries, and other market actors.

The corollary to that commonsense principle is the growing cross-border connections we see in our markets. As our markets grow, they have become increasingly interconnected. This ~~has been the direction they have taken for several decades~~ ^{IS A TIMELESS TRUTH} ~~now~~, and the pace of ^{MARKET} ~~growing~~ interconnection appears to be accelerating – whether we are in a period of boom or a period of crisis.

A second thing we have learned over the past several years is that, in a global marketplace financial problems that arise in one jurisdiction often do not stop at national borders. Instead, they often spill over those borders into other countries and travel the globe. But, those borders still constrain a national regulator's powers. Without assistance, a single regulator may not be able to collect evidence or recover assets for investors when people who commit fraud are located abroad. Similarly, on the supervisory side of what we do, without help, a regulator

cannot conduct an examination to verify that a regulated entity located abroad is in compliance with the rules. ^{IT IS REQUIRED TO FOLLOW.}

Yet, the existence of national sovereignty does not mean that we can be blind to the growing globalization of our markets.

As regulators with mandates from our legislatures, we cannot ignore what happens *within* our borders – ~~and~~ we cannot ignore the activities of issuers and firms abroad that affect our own markets.

Given the limits placed on action by national regulators beyond their borders, and our obligations to oversee our domestic markets, there are two possible ways to meet the threat of cross-border fraud and other misconduct.

The first is to build a moat around one's economy – capital controls, barriers to entry and other devices to shield a financial market from the rest of the world. This may seem an attractive option – many of the economies that avoided the worst of the recent financial crisis had capital controls and other barriers

between their markets and the rest of the world. But there is a high cost to such isolationism and no market is completely impermeable.

A financial market that does not participate in the wider global market limits the types of interconnections that generate market growth. Such a market is making a trade-off, sacrificing potentially greater growth for the protection that comes from severing ties with the larger ^{GLOBAL} market ^{PLACE}.

A second option – and the better alternative, because it preserves growth and recognizes the inevitable ties between markets and still offers a degree of protection against cross-border risks to the financial system – is closer ties among market regulators, to keep better pace with ^{GROWING MKT} the connections we ~~see growing in the markets themselves.~~

ENFORCEMENT COOPERATION – THE FIRST STEP

Securities regulators have long recognized the importance of maintaining the transparency and integrity of securities markets.

But market transparency and integrity require more than just good laws and regulations. The highest quality accounting and auditing standards, and the most comprehensive anti-fraud laws, are meaningless if those standards and laws are not enforced.

These statements are self-evident today. But this wasn't always the case. Until the 1980s, many jurisdictions did not ban insider trading on non-public information. Even where statutes regarding market fraud existed, many securities regulators

lacked the legal authority to properly investigate and prosecute such fraud. And ^{EVEN WHEN REGULATORS DID SHARE INFORMATION,} limitations on the use of ~~shared~~ ^{THAT} information prevented ^{THEM} regulators from further sharing the information with criminal investigators.

The result was that, even where a regulator had the authority to investigate and ~~prosecute~~ ^{TAKE ACTION AGST} securities fraud, the trail very quickly became cold once it crossed a jurisdiction's borders.

Fortunately, laws and regulations have changed. Today, all IOSCO jurisdictions recognize that their securities regulators should have comprehensive inspection, investigative, surveillance and enforcement powers. Every IOSCO member recognizes that securities regulators should have the authority to share information with their foreign counterparts. And, finally, we all recognize that we should have the power to conduct investigations on behalf of one another. These regulator-to-regulator alliances have significantly enhanced all of our abilities to deter, detect and punish fraud and other abuses in our own markets.

A NECESSARY SECOND STEP

But as the events over the past few years have amply demonstrated, enforcement cooperation of the type that IOSCO has advanced is only the first step in protecting the integrity of our globalized markets. Enforcement cooperation is ad hoc and after-the-fact – it kicks in after something has already gone wrong. What our markets and investors demand is a second step – enhanced regulatory oversight – and much closer supervisory cooperation among regulators in relation to large cross-border market actors. Only that type of cooperation ^{CAN} ~~may~~ prevent the harm from taking place.

Some have interpreted this demand as a call for a transnational regulatory body or a harmonization of regulatory policy and philosophy. But this view misses a fundamental truth. We can form transnational coordination bodies such as the Financial Stability Board and the G-20. And we can help develop international standards through bodies such as IOSCO. But, we

IT IS DOMESTIC GOVERNMENTS,

all know that, at the end of the day, ~~the accountability and~~
~~legitimacy of securities regulators rests with domestic~~
~~governments, not with these international bodies.~~
~~AND THEIR REGULATORS, THAT ARE RESPONSIBLE FOR ADMINISTRATION~~
~~AND ENFORCEMENT OF THE LAW~~

Yet – and this is critical. ~~Regulators~~[^] must be able to work together closely, across borders, not only to share enforcement-related information but also to facilitate each other's oversight of regulated entities that ~~may be~~^{ARE} operating in multiple jurisdictions. We need to recognize that, given the interconnections among markets, a threat to our counterpart's market is very much a threat to our own.

GLOBAL LEADERSHIP AND RESPONSIBILITIES

To do this, securities regulators must put aside the obsolete view of regulatory sovereignty that focuses exclusively on borders.

The United States is committed to open capital markets. But open capital markets are difficult to keep open without the

assistance of regulators in other markets. We have seen what financial contagion looks like, and the risks to our market as a result of the activities of globally active firms are great.

Because of this, US regulators are subject to legislative mandates that we oversee entities operating in our market, even if they are based abroad. Those risks and that mandate mean that we cannot ignore situations in which we are unable to get critical information that happens to be located abroad.

It also means that we need to rethink traditional notions of regulatory sovereignty. The idea that foreign regulators might wish to visit the US offices of a firm they regulate does not offend me. On the contrary, I welcome it. It means those regulators are doing their jobs and that, in turn, means that the US market is less likely to face a risk from a regulatory problem abroad. After all, the entities those foreign regulators are inspecting have chosen to operate abroad and chosen to be subject to overseas registration requirements. For the same

reason, if those regulators need our help in accessing supervisory or enforcement information located in the United States, we are very happy to provide our assistance. If we have learned anything, it is that a threat to their markets could well be a threat to ours.

PROTECTING THE INTEGRITY OF OUR MARKETS

I believe we are making great strides toward creating a regulatory regime in which jurisdictions work closely with one another to diminish the possibility of cross-border harm. The SEC currently has enforcement information-sharing arrangements with more than 80 jurisdictions, either bilaterally or through the IOSCO Multilateral MOU. We have also concluded supervisory cooperation arrangements with a number of ~~other~~ regulators.

WE CONTINUE TO
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All of these supervisory cooperation arrangements contemplate regular information-sharing among supervisory staff at the SEC

and its overseas counterparts, and all of them recognize^{Both} the importance of direct access to critical information from regulated entities and the need for onsite examinations. And, of course, IOSCO itself has published Principles Regarding Supervisory Cooperation, which include~~x~~ a model MOU that IOSCO members can adapt for their own supervisory cooperation arrangements.

~~But the acceptance~~ ^{UNFORTUNATELY, THE IMPLEMENTATION OF} of supervisory and enforcement cooperation is not yet universal. ~~And~~ ^T that leaves regulators who ~~do~~ ^{oversee} regulated entities with a cross-border presence with few options.

- We can ignore the overseas offices of regulated entities and hide our heads in the sand. But that would be irresponsible.
- We could close our market and insist that all regulated market participants operate exclusively in our own jurisdiction, guaranteeing that we have access to all relevant supervisory information and avoiding the thorny

issue ^{SUCH AS} of onsite examinations in other countries. But that would be severing our market from the broader global economy.

- Or, we could be selective, and close our market to market participants from those jurisdictions where supervisory and enforcement assistance is not forthcoming, while keeping it open for entities from those jurisdictions where information and assistance is more freely shared with us.

This last scenario may be preferable to the first two, but it clearly is not optimal. It could easily result in two parallel marketplaces, one for nations able to cooperate and share information with their foreign counterparts, and another for those whose regulators cannot. In that world, advanced, integrated markets ^{WHICH ARE} overseen by a close network of regulators sharing information, would enjoy the efficiencies and growth offered by an international capital marketplace. At the same

time, a second-tier market would develop, one in which investors ~~hopefully~~ ^{BE} would know ~~they are~~ taking their chances.

Of course, there is another option, one I might label the “best of all possible worlds.” We could solidify our enforcement cooperation, expand our supervisory cooperation efforts, reject limiting views of regulatory sovereignty, and view supervisory and enforcement cooperation as a form of collective defense for securities regulators. If we proceed in that fashion, we would ~~keep~~ ^{CONNECT} regulators ~~open and interconnected with each other~~ ^{IN AN OPEN AND EFFECTIVE MANNER}. In turn, this would support open, interconnected, and efficient markets of high integrity. I am optimistic that the work we are doing, together and through IOSCO, will ~~let~~ ^{LEAD} us achieve this _{↳ TO} much better solution.

Thank you.