

Assessment Committee

Committee Chair:

Ms. Sharon Kelly (Quebec AMF)

Committee Vice Chair:

Mr. Liam Mason (FMA New Zealand)

The IOSCO Assessment Committee (AC) monitors implementation of IOSCO Principles and Standards. It recognizes that IOSCO's effectiveness as a standard setter ultimately lies in the effective implementation of the Objectives and Principles of Securities Regulation and other IOSCO standards.

Progress on Thematic Reviews

a) Thematic Review on Suitability Requirements with respect to the Distribution of Complex Financial Products

In 2019, the AC completed work on its thematic review of implementation of the nine Principles on customer protection set out in the 2013 report *Suitability requirements with respect to the distribution of Complex Financial Products*. Twenty-nine members from both developed and emerging market jurisdictions participated in the thematic review. The final report was published on 26 September 2019. The report contains numerous findings and observations, including that (1) most of the participating jurisdictions have implemented the necessary rules aimed at preventing the mis-selling of complex financial products; (2) most jurisdictions have standards for how to treat customers fairly and for addressing conflicts of interest; and (3) the majority of jurisdictions require intermediaries to distinguish between complex and non-complex products, even though what constitutes a complex financial product differs among jurisdictions. Notably, none of the participating jurisdictions reported having a suitability regime specifically for complex products.

The report also found that most jurisdictions allow intermediaries to classify certain types of customers as non-retail (or its equivalent), based solely on the nature of the entity or specified monetary thresholds. However, these practices do not consider the com-

plexity and riskiness of different products, as required by the Principles. The review also found that Fintech developments related to digital advisors and online platforms have created new suitability-related challenges.

In light of the findings and observations, the report indicates that jurisdictions must have effective supervisory and enforcement mechanisms to support suitability regimes for complex products and to ensure that intermediaries take corrective action where their behavior falls short of supervisory or regulatory expectations. The report also urges jurisdictions to consider enhancing disclosure requirements to help customers make informed investment decisions and understand the advice they receive from intermediaries.

b) Thematic review on Business Continuity Plans with respect to Intermediaries and Trading Venues

In November 2018, the IOSCO Board approved a mandate for the AC to conduct a thematic review of the 2015 IOSCO reports on *Mechanisms for Trading Venues to Effectively Manage Electronic Trading and Plans for Business Continuity* (Trading Venues Report) and *Market Intermediary Business Continuity and Recovery Planning* (BCP Report). The main objective of the thematic review is to assess the consistency of implementation of the two Recommendations and the two Standards set forth in the Trading Venues Report³ and the BCP Report,⁴ respectively, and describe the legislative, regulatory and policy measures taken

³ Recommendation 1 to Regulators: Regulators should require Trading Venues to have in place mechanisms to help ensure the resiliency, reliability and integrity (including security) of critical systems; Recommendation 2: Regulators should require Trading Venues to establish, maintain and implement as appropriate a BCP.

⁴ Standard 1: Regulators should require market intermediaries to create and maintain a written business continuity plan identifying procedures relating to an emergency or significant business disruption; Standard 2: Regulators should require market intermediaries to update their business continuity plan in the event of any material change to operations, structure, business, or location and to conduct an annual review of it to determine whether any modifications are necessary in light of changes to the market intermediary's operations, structure, business or location.





by participating jurisdictions.⁵ The Review Team developed an Assessment Methodology and a related Questionnaire, which the AC approved at its meeting in Luxembourg in June 2019. Thirty-six IOSCO members from 33 jurisdictions are participating in the Thematic Review. The Review Team analyzed the responses it received to the questionnaire and sent follow-up questions to participating jurisdictions.

c) Money Market Funds

In 2019, the AC initiated a consistency review of IOSCO's MMF (money market funds) reforms. The review will assess the consistency of the implementation of seven out of 15 Policy Recommendations included in the 2012 IOSCO report on MMFs and will describe the contents of the legal and regulatory frameworks adopted in jurisdictions with significant MMF markets and assess them against IOSCO's 2012 Policy Recommendations for MMFs. The RT developed an Assessment Methodology and survey questionnaire. In July 2019, the AC circulated the questionnaire to nine participants accounting for more than 90% of the global MMFs. It analyzed the responses in September 2019 and met in Paris in November 2019 to discuss the ratings and drafting of the report.

d) Liquidity Risk Management

During its October 2019 meeting, the IOSCO Board discussed how the AC should approach the implementation

review of the *2018 Liquidity Risk Management Recommendations for Collective Investment Schemes*, which were developed as part of the effort to take forward the FSB's 2017 recommendations to address structural vulnerabilities arising from asset management activities. The Board approved the project specifications of this review at its February 2020 meeting.

ISIM on Secondary and Other Market Principles

The first IOSCO Standards Implementation Monitoring (ISIM) program covered Secondary and Other Markets (Principles 33 to 37 of IOSCO's Principles). The Board published the final report on 12 February 2019. Overall, the review found that the implementation of Principles 33-37 is generally high across most of the jurisdictions, particularly in developed markets.

ISIM - Principles Related to the Regulator

In June 2019, the Board approved the project specifications for conducting an ISIM project on the implementation of Principles Related to the Regulator (Principles 1-5) across IOSCO members. This project is expected to cover various member jurisdictions from both emerging and developed jurisdictions. The AC approved the Assessment Methodology and the survey questionnaire in September 2019. The questionnaire was circulated in October 2019 to the 56 IOSCO members who sent expressions of interest for participation in this review.

⁵ This Thematic Review is an Implementation Assessment (or Level 2) Review.



Contributions to G20 and Financial Stability Board updates on priority reform areas

The AC contributes to the annual updates on progress by FSB jurisdictions in implementing the reforms for money market funds and securitization —priority areas for the G20 and FSB. The reforms are part of an international effort to strengthen the structural resilience of capital markets.

The AC sent the 2019 updates to the Board by the 12 September 2019 deadline. In October 2019, it published the two reports *Update to the IOSCO Peer Review of Implementation of Incentive Alignment Recommendations for Securitisation* and *Update to the IOSCO Peer Review of Regulation of Money Market Funds*.

Revision and simplification of the IOSCO Methodology for Assessing Implementation of the IOSCO Objectives and Principles of Securities Regulation and updating the IOSCO Principles.

In June 2019, the Board approved the project specifications for updating the IOSCO Principles and simplifying the Methodology, with a final report expected by 2024. This project stems in part from an AC commitment to the Board to conduct a periodic review every five years to ensure that the Principles and Methodology are kept up to date. The AC has made progress on this work and is discussing available options to assist in simplifying the Methodology.

Capacity Building (CB) for Self-Assessments

To promote the full, effective and consistent implementation of IOSCO Objectives and Principles of Securities Regulation, the AC offers a capacity building program to assist members in using the IOSCO Methodology to conduct a self-assessment of their progress.

This new program targets IOSCO member jurisdictions seeking to understand and use the IOSCO Methodology more efficiently to identify gaps in regulation, procedures and processes and, ultimately, to achieve full implementation of international standards.

Collaboration with the FSB on the IMN Survey

In 2015, IOSCO began collaborating with the FSB's Implementation Monitoring Network (IMN) on the annual IMN survey of FSB jurisdictions. This work considers the status of implementation of G20/FSB post-crisis recommendations in areas not designated as a priority under the FSB Coordination Framework for Implementation Monitoring.

The AC is responsible for analyzing and reporting on several key areas of the survey relating to reforms in securities markets, including hedge funds, securitization, oversight of credit rating agencies, enhancing market integrity and efficiency, and regulation and supervision of commodities markets.

The IOSCO MMoU/EMMoU Screening Group

SG Chair:

Mr. Jean-François Fortin (Québec AMF)

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Ms. Jane Attwood (UK FCA)

Securities regulators around the world use the IOSCO Multilateral Memorandum of Understanding⁶ (MMoU) and its updated version, the Enhanced IOSCO MMoU (EMMoU), to help ensure effective global securities markets regulation. The MMoU and EMMoU represent a common understanding of how signatories should consult, cooperate and exchange information to strengthen regulatory enforcement in securities markets.



Since 2005, IOSCO has required securities regulators with primary responsibility for securities regulation in their jurisdictions to sign the IOSCO MMOU to become ordinary members, underscoring the importance of this standard for enforcement purposes. By facilitating information sharing and cooperation, the MMOU supports IOSCO members in their efforts to detect and prosecute fraud and illegal conduct, deter wrongdoing and prevent regulatory arbitrage.

The MMOU Screening Group is responsible for reviewing applications from authorities seeking to become signatories to the MMOU or EMMoU, to determine whether they meet the requirements for signing. When requested, the Screening Group also conducts preliminary assessments of draft legislative reforms that members propose to meet the requirements for becoming a signatory. The Screening Group comprises Verification Teams that perform the assessment of the applicants' compliance with the MMOU or EMMoU and subsequently present a report to the complete Screening Group for approval.

In discharging its duties, the Screening Group receives the support of the IOSCO Secretariat staff, which carries out formal checks on MMOU and EMMoU applications for completeness and clarity. The IOSCO General Secretariat also offers guidance and technical assistance to non-signatories to help them move forward with their applications.

New Signatories to the MMOU and EMMoU in 2019

In 2019, the following three IOSCO members signed the MMOU, bringing the total number of signatories to 124 by year end, out of 157 eligible ordinary and associate members at that time:

- > Commission d'Organisation et de Surveillance des Opérations (COSOB), Algeria
- > Auditoria Geral do Mercado de Valores Mobiliários, Banco (AGMVM), Cabo Verde
- > Astana Financial Services Authority (AFSA), Republic of Kazakhstan

Eight other members were listed on Appendix B, the list of members who have formally expressed their commitment to seek the legislative and administrative changes necessary for complying with the standards set out in the MMOU. One ordinary member remained in the non-signatory, non-Appendix B listed category,

given that it had not yet committed to seeking the legislative changes for achieving MMOU compliance. In total, nine ordinary members remained non-signatories to the MMOU at the end of 2019.

Enhanced MMOU

Since it was established in 2002, the MMOU has been the pre-eminent standard for international enforcement cooperation and information sharing among securities regulators. By facilitating cooperation, the MMOU supports IOSCO members in their efforts to detect and prosecute fraud and illegal conduct, deter wrongdoing and prevent regulatory arbitrage.

After 2002, financial markets underwent sweeping changes, driven by new technologies, regulation and the growing role of market-based finance in the global economy. In 2017, IOSCO established an enhanced MMOU to take into account the impact of these developments on IOSCO's enforcement efforts. The EMMoU provides for additional enforcement powers that IOSCO believes are necessary for continuing to safeguard the integrity and stability of markets, protect investors and deter misconduct and fraud.

The General Secretariat began accepting EMMoU applications from members in April 2017. Since then, the General Secretariat has received EMMoU applications from 23 jurisdictions, and 13 of those jurisdictions became EMMoU signatories by the end of 2019. Currently, the Screening Group is conducting an assessment of another seven jurisdictions.

The following three jurisdictions signed the EMMoU in 2019:

- > Alberta Securities Commission (ASC), Alberta
- > Financial Market Supervisory Authority (FINMA), Switzerland
- > Securities and Exchange Commission (SEC), United States of America

All members who submitted applications to become signatories to the EMMoU are currently signatories to the MMOU.

The MMOU will remain in effect for as long as any signatory wishes to use it. While the MMOU remains in effect, jurisdictions will co-operate with their counterparts under the instrument to which they are

⁶The complete name on the MMOU is the Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information.

both signatories. However, the long-term expectation is for all MMoU signatories to migrate eventually to the EMMoU.

MMoU Statistics

Every year, IOSCO collects statistics on how signatories use the MMoU to exchange information among themselves. These statistics help IOSCO track the use of the MMoU while determining which jurisdictions are the largest users globally and which are the largest within each of the four IOSCO regions. For many years, the MMoU Statistics were collected manually. But in 2017, the IOSCO Secretariat, with the support of the Screening Group, automated the process of statistics collection to make it more efficient and the data more accurate. This development gave birth to the automated MMoU Statistics System being used to collect and verify MMoU Statistics.

The statistics collected over the years indicate that the growing number of signatories has led to greater cross-border cooperation, enabling regulators to investigate more cases of insider trading, fraud and other offenses. A total of 526 requests for assistance were made pursuant to the MMoU in 2006. By 2019, the annual figure had reached 4,183 and is expected to continue its upward course as more members become signatories.

For information on the MMoU and the European Data Privacy Regime (GDPR), please see the Board Sub-Group on Data Protection in the section on Task Forces.



