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**CNMV XX Anniversary (1988 – 2008) International Conference
Securities Markets Perspectives: Supervision and Regulation.**

Securities Markets Global Perspectives

Jane Diplock AO

Chairman,

Executive Committee

International Organization of Securities Commissions

and

New Zealand Securities Commission

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Introduction

Good Morning distinguished guests, ladies and gentlemen

I take as my theme today the future of global securities regulation. For those who are concerned that this might be crystal ball gazing or fortune telling, I note a



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recent reflection of Professor Alan Kay: “The best way to predict the future is to invent it.”

I believe that we have the capacity to invent the future of securities markets regulation and we are well on the way to inventing it.

Before I embark on this speculative journey and turn on the over-the-horizon radar, please permit me to say how delighted I am to be here today. It is a particular honour for me, as I am sure for all of us, to join our hosts in celebrating 20 years of the CNMV (Comisión Nacional del Mercado de Valores). This conference is an important milestone. The Spanish capital markets are now significant players in the global arena. The Bolsas y Mercados Españoles – or BME – Spanish Exchanges were last year the fourth largest exchange in terms of market capitalization in Europe, after Euronext, London and the German exchanges and is ranked 10th in the world. They have the second highest number of listed companies registered in the world, and showed the 4th highest value of trading in Europe and 7th globally last year. Spain has clearly embraced the global markets of the 21st Century, and continues to demonstrate growth and leadership in this arena.

I am also very pleased to be here, because it gives me the opportunity to pay a special tribute. As Chairman of IOSCO’s Executive Committee, I can say how truly appreciative we are of the generosity and support provided by the Spanish Government, to IOSCO. IOSCO has been able to call Madrid its home for some



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seven years now since moving the General Secretariat here in 2001. We very much appreciate the wonderful facilities and the generous hospitality provided in hosting the General Secretariat in Madrid. After refurbishments of the magnificent villa on Calle Oquendo were completed, we were able to move our headquarters there. Like our many other colleagues from around the world I cherish the memories of the Opening Commemoration of the Madrid headquarters of IOSCO on 4 February 2004. The ceremony was led by His Royal Highness Don Felipe de Borbón, Prince of Asturias, and was attended by representatives of the Spanish Government and other dignitaries. We all enjoyed the celebrations in the beautiful gardens of the historic villa. Since then, we have had much good use of the premises, hosting many meetings and seminars there, in addition to the day-to-day work of the Secretariat.

I would also like to pay special tribute to the President of the CNMV, Mr. Julio Segura, and also to Mr. Carlos Arenillas, Vice-President of the CNMV. Our colleague and friend Carlos Arenillas has made a particularly valuable contribution at our IOSCO meetings and was instrumental in helping our new Secretary General settling into his new role in January this year. Carlos' views and input into our discussions around the Executive Committee table are particularly appreciated. I would like to thank him especially for his wise counsel and for his very valuable support and assistance to IOSCO.



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And how special it is to be back in Madrid, the City of Enlightenment as author Charles Noel coined it! I must say I also very much identify with film director Pedro Almodovar's description of Madrid as the muse-in-chief. Many of you may be aware that this is the city which provided a backdrop for most of his films.

Spain of course are the current holders of the European football championship, not to mention that it boasts the No 1 tennis player in the world.

The Challenges of Global Capital Markets

But moving from the fantasy of film to the reality of finance today... The last year has been a traumatic year for the world's capital markets. The aftershocks of the US sub-prime market crisis continue to reverberate around the global financial markets, and a number of the world's economies are suffering or in recession. Certainly the financial markets of the world face the most severe turbulence of recent times. And what there is no question about now is that the world's capital markets are truly global. Globalization encompasses the extraordinary growth rates of cross border capital flows and investment, and the increasing interdependence of markets in different national jurisdictions. The very form of markets is changing. Today market operators have the capacity through technology, as well as the financial incentives with demutualization of market ownership structures, to expand their global reach. Exchanges (and other trading platforms) are now



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motivated by maximizing returns to shareholders, and thereby competing to capture the broadest customer base through various types of strategic alliances, host relationships, franchises and outright mergers. They are motivated to respond to the demand for ever more cost effective mechanisms for trading.

The international dynamism in today’s capital markets coupled with the trauma of the current financial turbulence has heightened the intensity of a very important discussion which has challenged regulators and the financial community for at least a decade. This discussion relates to the future global financial architecture. From a regulatory perspective how do we manage the tension which arises in the face of rapidly growing global markets and burgeoning cross border trade, while our regulatory infrastructures remain nationally based?

Jurisdictions around the world have their sovereignty concerns and domestic priorities, and they come with different histories, and legal, cultural and political backgrounds, with different rules and traditions around commerce and trade, and with a great diversity of market systems. This is true of developed and emerging markets.

The issue of evolving the most effective and appropriate global regulatory architecture to cope with increasing globalization has challenged us for over a decade now. There has been discussion of the “holy grail” of financial regulation, the proposition that there needs to be a “super regulator” of global capital markets.



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A number of options have been proposed but all are to my mind impractical. All require that the domestic regulators cede jurisdiction to the “super regulator” at a time when domestic regulation in many jurisdictions is undergoing significant change to accommodate the changes in those domestic markets, and competition for the capital to further develop markets and economies is high. All solutions posited have been structural ones.

The volumes of domestic savings and investment make it also a political issue, and the very recent turmoil has demonstrated the power of the markets in driving economic activity.

I recall at a conference about 5 years ago being asked this very question from the floor. I was asked when we would see a single global regulator set up to regulate the financial markets around the world. My response at that time I have to tell you, and a view supported by my IOSCO colleagues, was:

“Probably not in my lifetime”

At that time we were all thinking about a concrete structure, or entity, a body or institution.

Today, if I was asked that same question I would not be quite so sure.



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Today I will make a bold (some might say rash) prediction about what the future of the global financial architecture could look like. My view is that we need to look to conceptual (or virtual) solutions of the 21st Century for the regulatory outcomes suitable for the truly global capital markets of this century. And what better place to think about this than here in Madrid! One of the many magical things about Spain is the effortless integration of the grand elaborate magnificent heroic past with the electrifying, dynamic excitement of the future. No where is this more obvious than at the Reina Sofia center where glorious examples of Spanish artistic heritage are counterpointed by wonderful virtual exhibitions from Paris and elsewhere.

Contrary to my reply some five years ago I do believe we may be seeing the beginnings of what might be called virtual super regulation. But unlike suggestions of some 5 years ago, this would be in a form very much more suited to the 21st century. My suggestion is that this concept of virtual super regulation could emerge (it is only just beginning) from the network of recognition agreements that are being mooted around the world. These arrangements recognize and ensure the differences necessary in domestic regulatory approaches. Rather than requiring mirroring of regulatory approach, they rely on regulatory equivalence.

So the exciting prospect of virtual super regulation is, in effect, the sum of the recognition agreements entered into by the major capital markets of the world.



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IOSCO's Principles and the MMOU will be at the center of these arrangements although domestic concerns may mean other "add-ons" on a case by case basis. I will come back to IOSCO and what I mean here shortly.

Mutual recognition

But let me explain a little more about where we are with mutual recognition.

Mutual recognition is a system which is gaining international acceptance and recognition. There is an increasing international acknowledgement of mutual recognition as a solution for effective regulation in the world of cross border trade.

To explain mutual recognition: Rather than envisaging standardized model frameworks across jurisdictions, mutual recognition allows domestic laws and regulations to reflect national imperatives while providing the capacity for cross-border cooperation and enforcement.

To work effectively, mutual recognition requires coordinated responses and consistent approaches to regulating cross border transactions. As a first step for achieving mutual recognition, one must agree on a common basis of principles on



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which to assess the effectiveness of foreign regulations and the work of the foreign regulator. The IOSCO Principles which I will explain shortly provide such a basis.

A worldwide application of mutual recognition is still a long way off. However, there have been a number of steps adopted in both bilateral and multilateral agreements recently which are edging towards a broader mutual recognition approach. There was, for example, the MOU of 2006 between the US Commodity Futures Trading Commission and the UK Financial Services Authority dealing with consultation and cooperation in relation to some US and UK exchanges. And within the European Union itself there are significant forms of mutual recognition.

The US Securities and Exchange Commission (US SEC) announced in late March a series of actions to further the implementation of mutual recognition with a number of countries, notably Australia, Canada and the EU. Since then on 25th August they signed a mutual recognition agreement with the Australian Securities and Investments Commission (ASIC) which provides a framework for the US SEC, the Australian Government and ASIC to consider regulatory exemptions that would permit US and eligible Australian stock exchanges and broker dealers to operate in both jurisdictions, without the need for these entities (in certain aspects) to be separately regulated in both countries. Processes have also commenced which are ultimately aimed towards achieving mutual recognition regimes with Canada and with the EU.



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In my own part of the world, New Zealand and Australia have earlier this year introduced mutual recognition of securities offerings. This regime allows New Zealand businesses to raise capital in Australia using New Zealand offer documents – and vice versa. Investors will also benefit from having a wider choice of investment opportunities.

Not only in the developed markets however are we seeing the application of this mutual recognition solution. A number of emerging markets are embracing the approach. One example is a voluntary opt-in scheme for mutual recognition of general/non-specialised collective investment schemes offered to non-retail investors developed through a working group of the IOSCO Regional Committee for the Asia-Pacific Region which was endorsed at that Committee's meeting in Seoul last November. This arrangement is currently open to IOSCO members from the Asia-Pacific region, which comprise a majority of emerging market economies – provided that specific requirements, including implementation or relevant IOSCO Principles, are met. It is an important first step to possible wider recognition arrangements.

All these arrangements, and there are other examples I have not mentioned, recognize the importance of local regulation applying to local markets and create mechanisms for consultation and cooperation between regulators.



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Mutual recognition does not require adoption of identical legislation. What will be core to the effectiveness of arrangements based on mutual recognition is confidence that the respective regulatory arrangements aim to achieve, and are capable of achieving, the same regulatory outcomes. Confidence in the capacity and willingness of the other regulators to enforce and cooperate will be equally critical. Put simply, it requires a comparable but not identical regulatory framework, and a similar appetite to take action. Domestic regulators who recognise the advantages in mutual recognition arrangements will need to look at their own regulatory arrangements and ensure that they have regulatory frameworks and enforcement capabilities in place that others can recognise and interact with. Under mutual recognition there would be true confidence in the regulatory frameworks of both, and indeed multiple, jurisdictions.

IOSCO has been conducting a dialogue with industry and one of the significant themes is the need for regulators to facilitate cross-border transactions and to ease the compliance burden of these. Mutual recognition can achieve this. Indeed I quote the example of the EU-US Coalition (the Coalition) on Financial Regulation (a group of global financial industry associations) which has noted mutual recognition as among the requirements necessary to form the basis for regulatory modernization.

I return to my bold idea that there could emerge over the next 10 years “virtual” super regulation as the sum of the recognition agreements entered into by the major



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capital markets of the world. I would like to elaborate a little more on how I think this might in fact occur.

Of fundamental importance to any economy, as all finance ministers and other political players know, are strong markets with sustainable growth potential. That's where mutual recognition arrangements add particular value. Far from merely facilitating regulatory activity, as they mature these recognition arrangements provide frameworks that effectively enhance the liquidity and resilience of markets. Once there is sufficient momentum in some of the world's large capital markets opening up access to deeper and more liquid markets, it is likely that the issuers, investors and other market participants in markets without such arrangements will bring pressure for similar arrangements to occur in their markets.

Mutual recognition provides a framework to exponentially leverage on the strength of markets around the world – bringing diversity, driving best practice and efficiency and opening up a multitude of opportunities for the local financial services sectors, business and consumers.

As a result, it is likely that a market value will emerge for participation. In turn, politicians will wish to ensure that the benefits of greater liquidity flow to their domestic markets. It will be the demand from market participants which is likely,



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in my opinion, to provide the political will in jurisdictions to undertake these exercises.

Looking over the horizon then, I see a world where all major markets recognize the others throughout the full gamut of their financial market activities. From the issuers and issues of securities, to brokers and other intermediaries, to exchanges, managed funds and other entities all could come under recognition regimes. The regulation of cross border entities and transactions could all be covered, as could multinational agencies such as credit rating agencies. This network would cover the globe ensuring that there were high standards, based on the IOSCO Principles and the IOSCO MOU. Hopefully it would lead to a world wide raising of standards as each jurisdiction strives to ensure its standards were high enough to be considered equivalent to others for the purposes of mutual recognition.

Such arrangements do not require linkages with any other international frameworks. Free trade agreements, investment protocols or other such arrangements can remain independent of mutual recognition arrangements. This enables complex external issues which may have trammled other discussions, such as tax or subsidies, to remain outside discussions on mutual recognition.

The analogy that resonates most forcefully in my mind is the very mechanism that underpins the internationalization of financial markets. The Internet and associated technological advances have created a closer, more connected marketplace. Its



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fundamentals are not one centrally controlled brain, but a series of inter-connected systems, vibrant in their differences but connected through adherence to a set of agreed protocols that facilitate the sharing of information. Can we as custodians of the laws that drive the world's financial markets learn from this paradigm? I think so. How much more elegant and sustainable is the concept of fostering and growing an interconnected web of mutual understandings, than a quixotic search for a centralized regulatory big brother. So I exhort you to reflect further on this concept of virtual super regulation.

IOSCO

I have mentioned IOSCO several times in the context of this concept of virtual super regulation. This is because, as I have said, mutual recognition is enabled by a benchmarking process, by being able to recognize equivalence in each others regulatory frameworks. IOSCO, the International Organisation of Securities Commissions, in my view provides a set of necessary benchmarks which would constitute the fundamental core of mutual recognition arrangements.

Many of you will be aware of IOSCO and its work as the recognized global standards setter for securities regulation. With its 109 regulator members IOSCO actively promotes its 30 broad Principles for securities regulation for full implementation in the regulatory framework of every member jurisdiction. These Principles do not constitute rules and regulations which if implemented would



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achieve convergence between regulators. They are rather a set of benchmark standards against which any jurisdiction is able to measure and align their own laws in a manner consistent with their own priorities, traditions, market developments and conditions and legal frameworks. As such they provide a foundation or set of building blocks to enable mutual recognition, or recognition of equivalence between jurisdictions to occur.

Another important element of any mutual recognition arrangement will, of course, be the ability for regulators to share information and co-operate to engage in effective enforcement across borders. To this end too, IOSCO has developed the facility, through its Multilateral Memorandum of Understanding (IOSCO MMOU) to which members can sign up. As signatories the securities regulators can gather information from their counterparts overseas on cases of insider trading or other securities law violations that they are investigating. There are currently some 65 jurisdictions from around the world that have either signed on to the IOSCO MMOU or committed to making the changes necessary to do so, and IOSCO has set the bold objective of having all member jurisdictions signed up or committed to do so by 2010.

IOSCO is pivotal in bringing together securities regulators from around the world, and its Principles and MMOU are fundamental building blocks to the achievement of cooperation.



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Some other developments have occurred more recently which are providing the pathway for mutual recognition to more easily occur.

Notably the work being done by the International Accounting Standards Board (IASB) towards a truly global set of high quality accounting standards is critical. It has opened up a mechanism for greater levels of convergence or co-operation across jurisdictions. The work towards the goal of a single set of global accounting standards, known as the International Financial Reporting Standards (IFRS) regime has been an ambitious and laudable undertaking, which has now gained global momentum, international recognition, and increasing commitment from around the world. The vision behind this is that a single worldwide set of standards will permit investors around the world to benefit from a high level of comparability and consistently high level of quality in financial reporting.

The impact of this work will be reduced if different interpretations of IFRS spring up around the world. This is why IOSCO has stated that any national variations must be clearly disclosed. It is also developing mechanisms to encourage sharing of views amongst IOSCO members on this topic, such as through the IOSCO IFRS database for example. However more work needs to be done here.

The engagement by the US in this harmonization project and the removal of the reconciliation requirement of US GAAP has greatly accelerated the IFRS project. Furthermore, on 27th August the US SEC announced that it would publish for



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public comment a proposed Roadmap that could lead to the use of IFRS by US issuers beginning 2014. The SEC will make a decision in 2011 on whether the adoption of IFRS is in the public interest and would benefit investors. The SEC's release announcing this noted that "the increasing integration of the world's capital markets, which has resulted in two-thirds of US investors owning securities owned by foreign companies that report their financial information using IFRS, has made the establishment of a single set of high quality accounting standards a matter of growing importance."

Virtual Network

The vision of virtual super regulation, being a network of recognition arrangements spanning the global capital market, will have a number of critics and nay sayers. In fact I have heard some rather cynical views from fellow regulators daunted by the practical difficulties recognition agreements face. They are not simple and can require significant political will. These should not be underestimated, as there will need to be significant thought leadership, as well as practical leadership in facing challenges along the way.

Some of these challenges will include the question of legitimate national interests that would need to be considered in the world we live in. There are likely to be voluntary opt in arrangements that jurisdictions will choose to participate in.



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Enforcement models such as the lead regulator model compared with the exemption route will need to be considered.

There will need to be further exploration of issues around asset freezing. Compensation and dispute resolution models particularly in regard to retail investments will need to be considered. Also it will remain incumbent on IOSCO to ensure its standards remain at a high and relevant level. Through the establishment of a MMOU Monitoring Group we have set up a process to ensure that jurisdictions keep to the standards they undertook to maintain when they signed onto the MMOU. There is a mechanism to deal with jurisdictions falling below the agreed standards.

In my view the challenges to be confronted in evolving the way forward as I see it will not in fact be insuperable.

Allow me to remind you of the significant progress IOSCO has already made in circumstances that have required significant political will. If 10 years ago, there had been a speaker at a conference such as this suggesting that a number of jurisdictions well known for their banking secrecy would have carved out or abolished that secrecy for the purposes of an international IOSCO MOU, the speaker might well have been laughed from the room, and yet that is precisely what has been achieved. It has been achieved because the reality is that there is a



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market value perceived in being a signatory to the IOSCO MOU which issuers, investors and other market participants require, and to which political forces have responded.

It is my belief that a similar set of forces could well be liberated as domestic market participants, investors and issuers see, and demand, the deeper more liquid markets that recognition agreements will enable. Of course mutual recognition (or unilateral arrangements for that matter) will be easier and will probably start between likeminded jurisdictions which have close links in foreign policy or other spheres. In some cases they are likely to commence in the wholesale markets as the potentially more thorny issues of protections for domestic retail investors are worked through. It is my belief that they will probably not stop there. The demand of market players for access to deeper liquidity will only increase and the demand for access to others markets will also increase.

The challenges for recognition agreements between jurisdictions which do not have close ties in other spheres may be difficult, but the success of the IOSCO MOU demonstrates that members of IOSCO can, and do, work together even though the foreign policy of the various governments may differ and I believe this comity in the regulatory space will extend through mutual and unilateral mechanisms. The drivers will be the increased liquidity that the increasing globalization of the capital markets delivers and the appetite for participation in other markets, as well as the need for the participants to be appropriately regulated.



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The arrangements will vary but underpinning them will be adherence to the IOSCO Principles and signature of the IOSCO MOU.

It is probable that there will continue to be a need for some 20th Century structural solutions for specific problems that arise. For example, it is still an open question as to whether there needs to be a global IOSCO structure to oversee credit rating agencies or whether national regulatory frameworks and the IOSCO Code of Conduct will suffice. IOSCO has recently updated its *Code of Conduct Fundamentals for Credit rating agencies*.

Concluding comments

The current consensus-based international framework of securities markets regulation, through the work of IOSCO, provides a sound basis for future developments in the global financial architecture. Building on the foundations laid by this organisation I now see a possible solution to challenges which have confounded financial markets players, national governments and regulators alike. An answer may be attainable, and attainable in our lifetime. While we might have been chasing a dream based on traditional settings, I believe if we adopt a 21st Century approach we might fulfil that dream. I do see that there is a real probability, and one driven by market forces in today's globalized world, that we



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might indeed see in our lifetime the concept of super regulation – virtual super regulation that is a network of recognition arrangements spanning the globe.

What role IOSCO will play in those future developments remains an open question. But one thing is very clear, IOSCO will be an instrumental and important participant in the exciting developments of the future. IOSCO will certainly be at the centre of the invention of the future of the global securities markets regulation.

Thank you