# MEDIA RELEASE

International Organization of Securities Commissions
Organisation internationale des commissions de valeurs
Organização Internacional das Comissões de Valores
Organización Internacional de Comisiones de Valores

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Madrid, 25 May 2010

## IOSCO Publishes Principles on Cross Border Supervisory Cooperation

The International Organization of Securities Commissions (IOSCO) has today published a set of *Principles Regarding Cross-Border Supervisory Cooperation* developed by its Technical Committee's Task Force on Supervisory Cooperation.

These Principles, accompanied by a report and sample Memorandum of Understanding (Sample MOU), set out how securities regulators can better build and maintain cross-border cooperative relationships that will allow them to more effectively oversee financial services providers such as, investment advisers, asset managers, hedge funds, credit rating agencies, exchanges and clearing houses, that operate in multiple jurisdictions.

The objective of these Principles is to assist regulators in determining the form of cooperation best suited to the regulatory task at hand, and outline the critical issues that experience has shown regulators should agree upon when building a supervisory cooperation arrangement.

The Task Force co-chairs, Kathleen Casey, Chairman of the Technical Committee, and Jean-Pierre Jouyet, Chairman of the Autorité des marchés financiers of France, said:

> "Supervisory cooperation involves the exchange of *day-to-day* oversight information outside of an enforcement context. Where financial firms or other market participants operate across borders, financial regulators can benefit from sharing information they have collected with their overseas counterparts, as this can assist each regulator in recognizing potentially troublesome trends, help identify common concerns and improve

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the abilities of regulators to assess the risk profile that a globally-active regulated entity may present.

"IOSCO has been at the fore in promoting better cooperation standards for securities enforcement, through its MMoU. Today's report sets out the framework for better supervisory cooperation outside of enforcement matters, improving information sharing arrangements and conducting joint inspections, which is in keeping with G20 recommendations.

"We expect this to be useful for members in their drive to improve their oversight of entities which operate across borders, such as investment advisers, credit rating agencies, hedge funds, exchange operators and clearing houses."

**The Principles for Supervisory Cooperation**

The IOSCO Principles for Supervisory Cooperation focus on three elements of successful supervisory cooperation:

1. General principles – which describe the usefulness of cooperation and the types of information and consultation that regulators should share and engage in;
2. Principles on the mechanisms for cooperation - which describe the functioning of memoranda of understanding, supervisory colleges and regulatory networks; and
3. Principles relating to the mechanics of cooperation, such as the basic principles of constructing a supervisory cooperation MOU.

**The Report on Fostering Supervisory Cooperation among Securities Regulators**

The Report analyzes the different types of regulated entities and the globalization of their operations, and offers suggestions on enhancing cross-border cooperation among regulators in order to improve the supervision of globally-active entities.

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The Report, in particular, describes two instances where enhanced supervisory cooperation may be necessary:

- The first involves regulated entities that operate in one jurisdiction but also have affiliates in other jurisdictions. A regulator may need assistance from a foreign counterpart, because a domestic entity may be significantly impacted by the activities of its foreign affiliate; and
- The second involves regulated entities that provide services in multiple jurisdictions and thus are subject to regulation by multiple regulators. In this situation, cooperation is necessary to avoid conflicting regulation and to limit duplicate efforts by regulators.

The Report also describes different types of mechanisms that securities regulators may use to foster greater supervisory cooperation, including ad hoc discussions, MOUs, supervisory colleges and networks of regulators. In addition, the Report suggests that regulators expand the notion of supervisory cooperation to establish *networks* to consider and evaluate risks to domestic and global markets. Instead of focusing narrowly on entity-specific oversight, the Report suggests that regulators should explore opportunities to further collaborate on identifying, assessing and mitigating emerging risks and seek to address and evaluate them on a global basis.

Before supervisory cooperation can be effectively implemented, obstacles that hinder these efforts must be considered and if possible removed. The Report highlights several existing obstacles to cooperation that regulators should be aware of and, depending on the circumstances, may wish to address in order to make supervisory cooperation more effective.

These obstacles include legal and organizational impediments to sharing information. By identifying such impediments, regulators can design cooperative arrangements that avoid some of these hazards while seeking any necessary legal or regulatory changes to requirements that limit such cooperation.

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**Sample Annotated MOU**

Accompanying the Report is an annotated Sample MOU. Task Force members believe a Sample MOU may assist IOSCO members when designing bilateral supervisory arrangements by demonstrating ways that the Principles (and particularly those principles relating to the mechanics, process, terms and conditions of cooperation) can be implemented in practice. The Sample MOU describes the issues and possible terms that may prove effective for supervisory cooperation arrangements, and illustrates some of the ways different jurisdictions might approach regulatory and legal issues that might arise when constructing such arrangements in practice. Fundamentally, the terms of any arrangement will have to be determined by the partners to such an arrangement and will necessarily reflect their own legal and regulatory circumstances and needs.

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## NOTES FOR EDITORS

1. *Principles Regarding Cross-Border Supervisory Cooperation* – Final Report of the Technical Committee of IOSCO, including the Principles for Supervisory Cooperation and is available on IOSCO's website.

2. IOSCO is recognized as the leading international policy forum for securities regulators. The organization's membership regulates more than 95% of the world's securities markets in over 100 jurisdictions and its membership is steadily growing.

3. The Technical Committee, a specialised working group established by IOSCO's Executive Committee, is made up of 18 agencies that regulate some of the world's larger, more developed and internationalized markets. Its objective is to review major regulatory issues related to international securities and futures transactions and to coordinate practical responses to these concerns. Ms. Kathleen Casey, Commissioner of the United States Securities and Exchange Commission is the Chairman of the Technical Committee. The members of the Technical Committee are the securities regulatory authorities of Australia, Brazil, China, France, Germany, Hong Kong, India, Italy, Japan, Mexico, the Netherlands, Ontario, Quebec, Spain, Switzerland, United Kingdom and the United States.

4. IOSCO aims through its permanent structures:

   - to cooperate together to promote high standards of regulation in order to maintain just, efficient and sound markets;
   - to exchange information on their respective experiences in order to promote the development of domestic markets;
   - to unite their efforts to establish standards and an effective surveillance of international securities transactions;
   - to provide mutual assistance to promote the integrity of the markets by a rigorous application of the standards and by effective enforcement against offenses.

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