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Dear Ashley

It was good to meet you again in London at the IOSCO Roundtable and as the new Chair of the Regulatory Affairs Committee of the International Council of Securities Associations (ICSA)¹, I am writing – formally – in support of the comments² made by the Cross-Border Regulation Forum (CBRF) following the London and other roundtables hosted by the Task Force. As you may know, ICSA has provided the secretariat to the CBRF, and a number of our members are directly engaged in its work.

As we have discussed previously, our view is that there are three key near-term recommendations for improving cross-border regulatory coordination, which IOSCO could facilitate: (i) enhance international dialogue between political officials and legislative/regulatory authorities at the initiation of policy development; (ii) help coordinate regulators in establishing reasonable implementation timetables; and (iii) develop bilateral cooperation/consultation mechanisms for identifying areas of conflict and bringing together regulators in the event that issues emerge later in the process. But at the heart of all of these is the need to avoid the adverse effects of extraterritorial measures.

As regards the CBRF letter, in particular, we fully support their specific recommendations as they relate to the role that IOSCO could play in developing solutions, namely:

1. Establishing more granular regulatory standards and principles, with supporting implementation guidance, which should help to respond to the need for improved harmonised implementation of those standards and principles
2. Providing a central mechanism or hub for information clearing through which national regulators could share their analysis of the extraterritorial impacts of proposed rules
3. Working with regulatory authorities to develop, where achievable, standardised regulatory disclosure requirements and, in particular, a standardised risk warning for investors when engaging in financial services activities beyond the supervisory reach of their domestic regulatory authority
4. Working with member authorities to establish a common set of principles, priorities objectives and regulatory good practices which would facilitate regulatory recognition (similar to the kind of regulatory standards and objectives set out in the overarching

¹ ICSA is the global forum for trade associations and self-regulatory organisations whose members are active in the capital market on a national and/or global basis. ICSA members collectively represent the vast majority of the world's financial services firms on both a national and international basis and are all involved, within their own jurisdictions, in active discussions with their regulators regarding financial sector policy reform. At the global level, ICSA promotes the views of its members through policy discussions and other forms of engagement with international regulatory bodies and standard setters, specifically the Financial Stability Board (FSB) and International Organization of Securities Commissions (IOSCO).

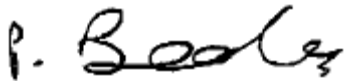
² In their letter dated 28 May 2014. We include – by way of convenience – the list of Roundtable questions (Annex 1).

legislation of some jurisdictions or which are reflected in principles for businesses and licensed persons)

5. Establishing a common definition for 'equivalence' or, as it is sometimes described 'comparability' and developing standards of measurement capable of being adopted by all IOSCO's member authorities for determining whether or not regulatory recognition can be achieved
6. Monitoring the implementation of its regulatory standards and principles, including observance of any supporting guidance (but recognising that current resource constraints may mean that this is best achieved, at least in the first instance, through a process of self-assessment and self-certification by IOSCO's member authorities)
7. Developing the existing MMOU beyond enforcement to cover information sharing and supervisory coordination
8. Working with member authorities to harmonise key definitions (e.g. hedging) and regulatory scope (e.g. regulated instruments, activities and, where appropriate, exemptions)

We hope that you and your Task Force colleagues find the CBRF letter useful and constructive input to your work. And I look forward to seeing you in Rio in September.

Yours sincerely,



Peter Beales
Chair of the Regulatory Affairs Committee
ICSA

Encs Annex 1 List of Roundtable questions

Annex 2 Executive Summary of the CBRF response to the IOSCO Task Force on Cross-Border Regulation

Annex 1

IOSCO Task Force on Cross-Border Regulation London Industry Meeting – List of Questions

Key issues, challenges and potential implications

1. What are the most successful and also the least successful cross-border regulatory approaches?
2. To share examples of challenges (e.g. costs, risks, gains and losses) across business lines (e.g. asset management, ECM, DCM (FICC), corporate finance / underwriting, advisory, private banking, etc) with respect to cross-border businesses.
3. To share responses to the effects of regulatory duplication, gaps or conflicts (e.g. EMIR, Dodd-Frank, SEF rules, etc.), including restructuring and regulatory costs.
4. To share examples of regulatory arbitrage that your firm has encountered in securities markets, which could have systemic implications.
5. Views on whether regulatory differences (due to local conditions and varying stages of market development), may be justifiable and/or accommodated.

Establishing a strong base for cross-border regulatory coordination

6. How can cross-border regulatory approaches be made to work in a more coordinated and effective manner, including at the level of regulatory authorities? In which areas could international standards enhance coordination, effectiveness and efficiency?
7. What role do (i) IOSCO and (ii) the industry have in relation to the development and implementation of cross-border regulatory approaches?

Annex 2

KEY ISSUES AND CHALLENGES RELEVANT TO THE REGULATION OF CROSS-BORDER BUSINESS IN FINANCIAL SERVICES

EXECUTIVE SUMMARY

The IOSCO Task Force on Cross-Border Regulation distributed a questionnaire in advance of the industry round-tables held by it in Hong Kong, London and Washington in April this year. In introducing each of the round-tables, the Chairman of the Task Force summarised the findings of a survey in which it had sought the views of IOSCO's member commissions on the challenges to establishing a more coherent framework of regulation of cross-border business. This report, which draws on a number of case studies and worked examples, is the response of the Cross-Border Regulation Forum (CBRF) to that questionnaire and based on our current understanding of the findings of the survey conducted by the IOSCO Task Force.

In drafting its response, the CBRF has drawn on the views of its member organisations as to the overarching principles and mechanisms which they believe are necessary to establish more effective cross-border regulation, and the benefits a more coherently regulated and more open international marketplace.

In general terms, the CBRF has concluded that:

- While there are examples of where cross-border approaches to regulation have been successful, in many cases they have failed to achieve their aims.
- The costs of unsuccessful regulatory approaches can range from the neutralisation of the original policy objective of the underlying regulation, to putting market participants in a position whereby abiding by one law puts them into direct conflict with another.
- A direct consequence of ineffective and/or unaligned/disjointed regulatory requirements is market fragmentation, increased barriers to entry and a reduction in the products available to end users, and in market liquidity, efficiency and viability.
- Unaligned rules that are extraterritorial in reach can also result in the restructuring of the businesses of market participants for regulatory reasons which, in some cases, may have a serious adverse impact on the commercial efficiency of those businesses and their ability to cater for clients' needs.
- The combined impact of the consequences of regulatory conflict and confusion and a restrictive approach on the ability to trade in non-domestic markets and products is likely to undermine the risk management capability of end users and the pro-growth policies that are now being introduced by many governments.

For these reasons, the development of a more coherent and coordinated approach to the regulation of cross-border business is critical to market integrity, investor protection and business efficiency. To that end, the CBRF believes that IOSCO is well placed to play a key role (i) in reviewing the 'tools' for establishing greater regulatory coordination and coherence; (ii) developing implementation guidance on any principles and standards of measurement introduced by it for assessing regulatory recognition; and (iii) providing the mechanisms and processes to facilitate closer regulatory collaboration. The CBRF also believes that the industry should have a key role to play in providing input on an ongoing basis as an essential part of that process.

In terms of the principles and/or structures needed to support a more coherent approach to cross-border regulation, the CBRF has put forward for consideration a number of recommendations, including:

- Developing closer coordination between regulatory authorities in the regulation and supervision of cross-border business, including more timely and comprehensive information sharing.
- Adopting a consensual interpretation of what is meant by 'equivalence' based on equivalent regulatory outcomes rather than a line-by-line comparison of different legislative acts. This requires developing common processes and criteria for measuring whether or not jurisdictions are sufficiently compatible to be recognised for regulatory purposes.
- Establishing a more proactive approach towards facilitating cross-border trading and investment.
- Developing shared principles of regulation to facilitate the convergence of regulatory policies, rules and processes of regulators in different jurisdictions, including an express objective to seek to avoid regulatory duplication, conflict and complexity.
- Taking into better and earlier account the need for regulatory policy development and rules formation to facilitate growth and the commercial benefits of cross-border business.
- Establishing mechanisms to facilitate earlier negotiation between authorities on future changes in regulatory policy, practice and rules and, as appropriate, for carrying out reviews of rules.

In general terms, the CBRF believes that addressing these issues and establishing new structures to facilitate a more coherent approach to cross-border regulation will generate greater inter-jurisdictional confidence between regulatory authorities and avoid unnecessary duplication and costs. This will benefit not just the consumers and providers of financial services, but also the regulatory authorities themselves. For these reasons, the CBRF would reiterate the view expressed in its earlier key issues paper to the IOSCO Task Force that the need for regulatory coherence must become part of the G20's agenda, and that the G20 should reaffirm its commitment to open markets and expressly support the role and work of IOSCO in this area.