



**ICSA**

INTERNATIONAL COUNCIL of SECURITIES ASSOCIATIONS

January 7, 2005

Mr. Philippe Richard  
IOSCO Secretary General  
Oquendo 12  
28006 Madrid  
Spain

**Re: ICSA's Comments on IOSCO's draft *Consultation Policy and Procedures***

Dear Mr. Richard:

The International Council of Securities Associations (ICSA)<sup>1</sup> would like to thank you and your colleagues at IOSCO for the work that has gone into IOSCO's draft *Consultation Policy and Procedures*. IOSCO's adoption of a structured consultation policy is extremely important because it will, by allowing for increased input from market participants and other interested parties, make regulatory policies more effective while also reducing the risk that new policies will have unintended, and potentially damaging, consequences for financial markets. In addition, IOSCO's adoption of a structured consultation policy will have a positive influence elsewhere because of the demonstration effect that the policy will have on IOSCO's members.

Therefore, we welcome this opportunity to comment on IOSCO's draft document. First of all, we commend IOSCO for its proposal to consult on all projects that would involve the issuance of international standards and principles for the securities sector. However, ICSA members strongly encourage IOSCO to consult as well on all proposals that would involve the modification of international standards and principles for the securities industry. In addition, we would like to note some other areas where we believe IOSCO's proposed consultation policy could and should be strengthened.

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1. ICSA is composed of trade associations and self-regulatory associations for the securities industry in eleven countries as well as a number of international trade associations. ICSA members represent and/or regulate the firms that carry out the bulk of the activity on the world's equity, bond and derivatives markets. A list of ICSA members is attached to this letter.

### **1. Prior to the formal consultation**

The period prior to a formal consultation is a critical and often underappreciated stage in the consultation process. Therefore, we urge IOSCO to place greater stress on consulting with market participants and other informed parties prior to beginning work on a consultation document in order to determine the need for regulatory action and, if such a need exists, what action would be appropriate. Contacts with market participants and other informed parties during this preparatory phase would help focus the debate on the most important and material issues.

### **2. During the consultation process**

The heart of any structured and effective consultation program is regulators' ability to target and invite submissions from the full range of interested parties in as open a manner as possible. IOSCO and its members could accomplish this objective by: (a) publishing consultation documents on the Internet and in a wide variety of media, both internationally and within individual jurisdictions, in order to ensure that the greatest number of interested parties is aware of the documents; (b) considering the establishment of working groups composed of market professionals and others knowledgeable about the specific topic under consideration in order to elicit their views; and, (c) seeking comment, whenever possible, on the cost and operational implications of proposed standards or principles, including the impact on small firms, sufficiently early in the consultation process for market participants to analyze them prior to submitting their comments.

### **3. Responding to the feedback received**

An effective consultation policy both encourages and requires a genuine dialogue between regulators and market participants. A genuine dialogue is possible only when market participants and others understand that IOSCO welcomes comments on its consultation documents and will respond appropriately to those comments. This means, first and foremost, that market participants and others must be given adequate time to respond to consultation documents, a particularly important consideration for complex policy considerations. We would like to note that some national regulators have adopted or are contemplating adopting a minimum three-month consultation period for all consultation documents and we urge IOSCO

to adopt the same. In addition, we would encourage IOSCO and its members to inform interested parties of their thinking at various stages of the consultation process, including through the use of concept releases and feedback statements. Most critically, we would encourage IOSCO and its members to consult for a second time if the response to the first consultation revealed significant problems, or where revised proposals are substantially different from the proposals on which the original consultation was based.

#### **4. Providing notice when normal procedures cannot be followed**

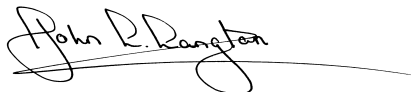
In those cases where there is a significant departure from normal consultation procedures, we urge IOSCO and its members to provide notice of, and the reasons for, such a change in procedure through published statements on the Internet and other media.

#### **5. Reviewing the consultation process**

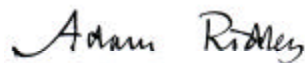
Given that this is a new and exploratory stage for IOSCO, ICSA members would encourage IOSCO to review its consultation policy within a relatively short period of time. Specifically, we would suggest that it might be useful for IOSCO to review its consultation principles and procedures after two years or so.

In closing, we would like to emphasize once again the importance of IOSCO's commitment to the adoption of a structured consultation policy and how much we appreciate this initiative. Please do not hesitate to contact the undersigned or Dr. Marilyn Skiles, Secretary General of ICSA, regarding the comments in this letter. For your review, we are enclosing a copy of ICSA's *Statement on Regulatory and Self-Regulatory Consultation Practices*.

Sincerely,



John L. Langton  
Chief Executive, International Securities  
Market Association (ISMA) and  
Chairman, ICSA Advisory Committee



Sir Adam Ridley  
Director General, London Investment  
Banking Association (LIBA) and  
Chairman, ICSA Working Group on  
Regulatory Transparency

*The members of ICSA are as follows:*

Association Française des Entreprises d'Investissement, France  
Australian Financial Markets Association, Australia  
Bond Exchange of South Africa, South Africa  
The Bond Market Association, United States  
Italian Association of Financial Intermediaries, Italy  
International Banks and Securities Association of Australia, Australia  
International Primary Market Association, United Kingdom  
International Securities Market Association, Switzerland  
Investment Dealers Association of Canada, Canada  
Japan Securities Dealers Association, Japan  
Korea Securities Dealers Association, Korea  
London Investment Banking Association, United Kingdom  
NASD, United States<sup>1</sup>  
Securities Industry Association, United States  
Swedish Securities Dealers Association, Sweden  
Taiwan Securities Association, Taiwan

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1. NASD abstained from voting on this document.