COMISION NACIONAL DE VALORES
DIRECCION JURIDICA
MEMORANDO DJ-120-2011

Para: Celia Ana Bravo
Directora de Administración

De: Marelissa Quintero de Stanziola 25/7/11
Directora Jurídica

Asunto: Informe – Misión oficial – Reunión del Comité de Mercado Emergentes de IOSCO – Estambul Turquía.

Fecha: 25 de julio de 2011

Del 13 al 15 de octubre de 2010, se llevo a cabo en la ciudad de Estambul, Turquía, reunión del Comité de Mercados Emergentes de la Organización de Reguladores del Mercado de Valores – IOSCO (por sus siglas en inglés) y Conferencia.

La Comisión Nacional de Valores es miembro de éste Comité y adicionalmente participa activamente en el Grupo de Trabajo No. 4 sobre cumplimiento e Intercambio de Información. (*Enforcement and Exchange of Information*).

El día 14 de octubre se llevo a cabo reunión de este grupo de trabajo, en especifico se trato tema de las actividades de este grupo de trabajo especialmente la del mandato de "*Fit & Proper*" que tiene por objeto identificar la naturaleza y alcance de las evaluaciones sobre "*Fit & Proper*": idóneo y solvente y sobre la cooperación internacional entre los miembros de IOSCO.

Después de circular cuestionario y evaluar las respuestas, el WG4 decidió continuar con los estudios y perlar un compendio sobre las mejores practicas en intercambio de información bajo la evaluación de idóneo y solvente.

El día de la reunión, se adopto la agenda, se presento el reporte del Presidente del Comité de Mercados Emergentes; discusión sobre Dirección Estratégica de IOSCO; presentación de Reporte sobre Titularización; Reporte sobre Mercado de Bonos Corporativos en Economías emergentes; Reportes de los 5 grupo de trabajos de IOSCO; Reporte de la Secretaria General de IOSCO, entre otra discusión varia.

Se adjunta al presente informe, documentación de sustento, copia de la agenda y reportes de grupos de trabajo.

COMISIÓN NACIONAL DE VALORES
DIRECCIÓN NACIONAL DE ADMINISTRACIÓN
Recibido por:
Fecha: 26/7/2011

INTERNATIONAL ORGANIZATION OF SECURITIES COMMISSIONS

DRAFT AGENDA

Meeting of the Emerging Markets Committee
Istanbul, Turkey – 14 October 2010

Meeting of the Emerging Markets Committee
Istanbul, Turkey
14 October 2010 (13:45 to 17:30)

DRAFT AGENDA

1. Adoption of the Agenda
2. Adoption of the Minutes of the last Meeting (7 June 2010)
3. Report from the Chairman
    a. Report on issues arising from the Joint meeting of the Technical Committee and Executive Committee of 1 October 2010, Chennai
    b. Presentation of the EMC Third Annual Survey
    c. Other: Report on the Financial Stability Board related matters
4. Report on the Progress of the Monitoring Board of the IFRS foundation in reviewing the governance of IASB
5. Discussion on the IOSCO Strategic Direction
6. Presentation of the EMC Report on Securitization (in collaboration with the IMF)
7. Report from the Task Force on Development of Corporate Bond Markets in Emerging Economies (in collaboration with WB)
8. Report of the Working Group on Disclosure and Accounting
9. Report of the Working Group on the Regulation of Secondary Markets
10. Report of the Working Group on the Regulation of Market Intermediaries
11. Report of the Working Group on Enforcement and the Exchange of Information
12. Report of the Working Group on Investment Management
13. Report from the Secretary General
    a. Report on the IOSCO Assistance Program and on the IOSCO Educational Programs, including the Risk Based Supervision Seminars with the IMF
    b. Report on the Implementation of the IOSCO MOU
    c. Review of the Principles and Methodology
14. Discussion on Specialized Courts dedicated to economic and securities related issues

15. Election of EMCAB member

16. Varia

17. Next Meeting

INTERNATIONAL ORGANIZATION OF SECURITIES COMMISSIONS

DRAFT AGENDA

Meeting of the Emerging Markets Committee
Istanbul, Turkey – 14 October 2010

Minutes
of the IOSCO EMC Working Group 4 Meeting,
Bucharest, Romania, 5th November 2009

The meeting was chaired by Mr. Boguslaw Budzinski.
The following members attended the meeting:

INSTITUTION	PARTICIPANT'S NAME/SURNAME
ALBANIA - *AFSA*	VIOLANDA THEODHORI
ALGENTINA - *CNV*	D.PABLO SANGUINETTI
BARBADOS – *SCB*	VIRGINIA MAPP
BRAZIL – *CVM*	EDUARDO BUSATO
BRAZIL – *CVM*	EDUARDO GOMES
BRITISH VIRGIN ISLANDS – *BVIFSC*	BRODRICK PENN
CHILE - *SVS*	MACARENA VASQUEZ LEPI
CHINA, PEOPLE'S REPUBLIC OF – *CSRC*	HVA YIFEING
CHINA, PEOPLE'S REPUBLIC OF – *CSRC*	XU CHUNMENG
CZECH REPUBLIC – *CNB*	PAVEL HOLLMANN
DUBAI - *DFSA*	ALI HASSAN
DUBAI - *DFSA*	MARK M'GINNESS
[redacted]	[redacted]
INDIA - *SEBI*	DR. K. M. ABRAHAM
INDIA – *SEBI*	DEEPAK TRIVEDI
MACEDONIA – *SECRM*	VASKO PEJKOV
MALAYSIA – *SC*	LAENA RAHIM
MOROCCO – *CDVM*	HASSAN BOULAKNADAL
MOROCCO – *CDVM*	HICHAM ELALAMY
MONTENEGRO – *SCRM*	HALA POPOVIC
POLAND – *KNF*	SEBASTIAN BOGDAN

ROMANIA – *RNSC*	RALUCA TARIUC
ROMANIA – *RNSC*	MARIUS MIHAI
ROMANIA – *RNSC*	ANCA IOACARA
ROMANIA – *RNSC*	ALINA ROTARU
ROMANIA – *RNSC*	OANA STEFANOIU
ROMANIA – *RNSC*	OANA LAZARESCU
SOUTH AFRICA – *FSB*	NORMAN MULLER
CHINESE TAIPEI – *FSC*	JAMES CHANG
CHINESE TAIPEI – *FSC*	BRENDA HU
TAIWAN FUTURES EXCHANGE	ETHAN HSIEH
TURKEY – *CMB*	VEDAT AKGIRAY
TURKEY – *CMB*	TUNCAY YILDIRAN
TURKEY – *CMB*	TUBA ALTUN
UNITED ARAB EMIRATES – *SCA*	EBRAHIM ALZABI
UNITED ARAB EMIRATES – *SCA*	OBAID AL ZAABI
UNITED ARAB EMIRATES – *SCA*	SAMI HALTAB

Mr. Boguslaw Budzinski opened the meeting and welcomed all participants.

1. Adoption of the Agenda.

The agenda was adopted.

2. Adoption of minutes of the last WG4 meeting in Tel Aviv.

The minutes were adopted.

3. Information on cooperation with Screening Group and on implementation of the MMoU.

The Chairman informed that The Screening Group continues to devote significant resource to this work. The Screening Group's workload has increased significantly this year, with 21 applications discussed during the SG meeting in Athens on 8-10 September 2009, and the next 11 to be discussed during the Washington meeting in December 2009; however, in order to meet the deadline a further 5 applications need to be made and screened by the Group by the end of 2009.

In order to deal with the bottle-neck of applications, the Screening Group has been discussing some innovative ways to improve efficiency and effectiveness in the screening process. The Group has proposed a way to speed up the screening process, known as the "Fast Track process", to be adopted in relation to suitable applicants – i.e. those that are obviously Appendix B (and acknowledge that they lack the necessary legal authority to sign the MMoU), but Applications which do undergo the Fast Track Process will need a further, more comprehensive review at a later stage, to provide them with a road-map to obtaining the necessary legal authority to be able to become full signatories of the MMoU. Bearing in mind the wave of applications being received as the 2010 deadline approaches, VT members will need increasingly to dedicate significant time and resource to screening.

The EMC WG4 members participated in the activities of the Screening Group and the Screening Group Verification Teams. Moreover, the EMC WG4 Chairman as Co-Chairman of the Screening Group was involved in the work on the implementation of the MMoU. Since last EMC meeting in Tel Aviv there was one SG meeting, held on 8-10 September 2009 in Athens.

Progress on MMoU applications (as of 21 October 2009):

- 64 jurisdictions are currently signatories to the MMoU (listed on Appendix A), 33 of which are EMC members;
- 34 are listed on Appendix B, 30 of which are EMC members;
- 16 applications currently reside with Verification Teams for review, 12 of which are EMC members;
- 5 jurisdictions have not submitted their applications to become IOSCO MMoU signatory, **all of which are EMC members.**

The Screening Group also provides assistance to the MMoU Monitoring Group in the form of statistics showing the use of the MMoU by its signatories. Statistics for 2008 were presented to the Monitoring Group when it met at the Tel Aviv meeting on 5 June 2009.

At the instigation of the Monitoring Group the Screening Group also discussed how best to capture knowledge relating to interpretation of the MMoU. The Group decided to produce an "annotated" version of the MMoU, so that each provision would have attached to it the name of the application or applications where the particular provision was debated with a short note of the issue and the conclusion and a link to the relevant part of the VT report. Anyone wanting further information can now look at the relevant VT report(s). "Annotated" version of the MMoU is posted on the IOSCO website in the MMoU section.

4. Discussion on the EMC WG4 Mandate on Fit and Proper Assessment: *Best Practices* and the Portal on Information Sharing.

The Chairman informed the Group about the implementation of the current mandate on the F&P Assessment. He presented to the Group *the Best Practices* and main features of the new Portal on Information Sharing.

The portal is intended to serve as a gateway to useful information for financial regulators, gathered and organized in a user friendly way that would increase the effectiveness of inter-agency cooperation and information sharing. Instead of (or in parallel to) sending f&p requests for information under the IOSCO MMOU and awaiting a few weeks or months for responses, requesting authorities would themselves be able to efficiently search for public information on f&p examinees, simply with a click on a mouse.

The Group accepted the *Best Practices* and the Portal. *The Best Practices* will be posted on the IOSCO web site.

The Chairman encouraged members of the Group to participate in the Portal exercise and to share information on F&P assessment with other IOSCO members.

5. Presentation: Ms. Georgina Philippou, Head of Retail 2 Division, Enforcement and Financial Crime, UK FSA.

Ms. Phillippou, Chair of IOSCO SC4 informed the group information on current works of the Standing Committee 4.

She also presented the experiences of the FSA regarding the enforcement activities on the British Market. Members of the WG 4 took part in the discussion regarding efficient enforcement of the securities legislation.

6. Presentation: Ms. Eleftheria Apostolidou, Director, International Cooperation Department, Hellenic Republic Capital Market Commission.

Ms. Apostolidou joined the meeting via conference call and she shared with the Group the experiences of the HCMC regarding the enforcement activities on the Greek market. Members of the Group took part in the discussion on the specific provisions of EU legislation and Greek legislation regarding market abuse cases and insider dealing.

7. Presentation: Ms. Ana Carvajal, International Monetary Fund.

Ms. Carvajal made a presentation on: *The challenge of Enforcement in Securities Markets: Mission Impossible?*
Ms. Carvajal, Ms. Philippou and the Members of the Group discussed the IMF approach to the enforcement activities in the global securities markets. Ms. Carvajal underlined the importance of the enforcement and exchange of information as one of the main cornerstones of the safe financial markets.

IOSCO

PRELIMINARY PROGRAMS

EMC Meeting, October 13-14, 2010

Wednesday October 13, 2010	08.30 - 09.00	Registration
	09.00 - 10.30	Task Force on Bond Markets
	10.30 - 10.45	Coffee break
	10.45 - 12.15	WG 1
	12.15 - 13.45	Lunch
	13.45 - 15.15	WG 2
	15.15 - 15.45	Coffee break
	15.45 - 17.15	WG 3
Thursday October 14, 2010	08.45 - 10.30	WG 4
	10.30 - 11.00	Coffee break
	11.00 - 12.30	WG 5
	12.30 - 13.45	Lunch
	13.45 - 15.00	EMC Plenary Session
	15.00 - 15.30	Coffee break
	15.30 - 17.30	EMC Plenary Session (continued)

EMC Conference, October 15, 2010

08.30 - 09.00	Registration
09.00 - 10.00	Opening session
10.00 - 11.15	The new global financial architecture along with the new measures taken on the financial crisis: Are securities regulators in Emerging Markets properly equipped to manage systemic risk?
11.15 - 11.30	Coffee break
11.30 - 12.45	Corporate Bond Markets in the Emerging Markets: setting the scene for their development
12.45 - 14.00	Lunch
14.00 - 15.15	Implementation of IFRS in Emerging Markets, recent discussions and experiences
15.15 - 15.30	Coffee break
15.30 - 16.45	Algorithmic and High-Frequency trading, and the challenges it poses to markets and regulators

Marelissa Quintero

De: Katarzyna Tomczyk [Katarzyna.Tomczyk@knf.gov.pl]
Enviado el: Martes, 15 de Junio de 2010 07:52 a.m.
Para: mquintero@conaval.gob.pa
CC: info@conaval.gob.pa
Asunto: information on the IOSCO EMC Working Group 4 activities

Dear Ms. Quintero,

I am writing with regard to your interest in joining the works of the IOSCO EMC Working Group 4 on Enforcement and Exchange of Information. Thank you for your interest in the WG4's works and your willingness to participate in the WG's activities. Below please find the most up-to-date information on our works.

Fit and Proper Mandate

The Fit and Proper mandate is aimed at identifying the nature and scope of Fit and Proper assessments and the international cooperation amongst IOSCO members (and more specifically, amongst the IOSCO MMoU signatories) with regard to such assessments (e.g.: the criteria for an examinee to be considered as subject to request of information from foreign authorities, the criteria for determining which foreign regulator to address for requesting information with regard to a multi-nationally networked examinee etc.).

On a basis of compilation of responses from 38 jurisdictions, EMC WG4 Report on Fit and Proper Assessment was prepared by the Israel Securities Authority and posted on the IOSCO website.

Since the Report has shown numerous interesting differences concerning the exchange of information under Fit and Proper Assessment in various jurisdictions, WG4 decided that the mandate shall be continued. The core group renewed its works (with new members joining the group) in order to prepare *Best Practices on Exchange of Information under Fit and Proper Assessment*. The draft document was prepared by the KNF - Polish FSA and accepted at the EMC-WG4 Bucharest meeting in November 2009.

The guide's main aim is to reduce the risk that responsible persons of the regulated institution are not fit and proper for their roles. The Best Practices are intended to serve the Members of IOSCO in ensuring that financial institutions are subject to adequate regulations and supervision and that competent authorities take necessary legal or regulatory measures in this matter. The "fit and proper" assessment is both an initial test undertaken during consideration of an application for licensing or authorization and also a continuing and cumulative test which takes into account the ongoing conduct of business and the history in compliance with all applicable laws, regulation and codes. The Best Practices are a framework of minimum voluntary standards for sound supervisory practices and are considered universally applicable. National authorities are free to adopt supplementary measures that they deem necessary to achieve effective supervision in their jurisdiction. The Best Practices may be read in conjunction with relevant international agreements and national regulations.

Furthermore, as stipulated in the EMC WG4 Report on Consultation and Exchange of Information under Fit and Proper Assessments, 92% of the respondents expressed their interest in establishing a database designated for f&p assessments. The idea of such a database has been discussed with the IOSCO General Secretariat who in principle expressed full support to the project. However, the General Secretariat noted that, from their perspective, the following three aspects had to be considered in detail: data protection relevant issues, technical matters and cost. An alternative

suggestion to the database idea, aiming at minimizing the impact of the aforesaid issues , would be to establish a designated portal intended to improve and facilitate cooperation and exchange of information amongst IOSCO members.

The portal is intended to serve as a gateway to useful information for financial regulators, gathered and organized in a user friendly way that would increase the effectiveness of inter-agency cooperation and information sharing. Instead of (or in parallel to) sending f&p requests for information under the IOSCO MMOU and awaiting a few weeks or months for responses, requesting authorities would themselves be able to efficiently search for public information on f&p examinees, simply with a click on a mouse.

For those requesting authorities whose laws require submission of formal information requests (under the MMOU) in any case of f&p assessments (rather than relying on information collected by them independently), the portal is obviously not intended to replace the formal channel of information requests. Rather, the portal may be used by those requesting authorities as a "first-instance" tool in collecting background information required for their f&p assessments, which may allow for more specific or targeted information requests based on the information previously collected with the help of the portal.

This information sharing platform is likely hence to reduce the time and efforts of both requesting and requested authorities in handling f&p requests and to efficiently accelerate the f&p assessment procedures. This, by reducing the bureaucratic interruptions in the process of information sharing conducted through formal requests for information submitted under the IOSCO MMOU.

The portal's interface is constructed in the following way:
- Home page: a list of the jurisdictions that take part in the portal - a selection of a jurisdiction from the list will be made by clicking on the name of that jurisdiction.
- The jurisdiction's profile will include hyperlinks to designated information on subjects relevant for f&p assessments, aimed at expanding the sources of public information available to the IOSCO members/ IOSCO MMOU signatories while conducting their f&p assessments.

Some examples for such hyperlinks may be:
- Local Registers/lists of financial service providers: Local Companies Registries' websites; local regulators' websites (securities authority/central bank/Ministry of Finance/Ministry of Justice/anti-money laundering etc.) containing lists of licensees in the financial sector (investment advisors, portfolio managers etc.); Land Registry; Mortgage Registry; etc.
- Local Court decisions (mostly found on the local Judicial Authority's website) - decisions relating to breaches of local financial laws, as well as non-financial breaches involving any kind of dishonesty/impropriety.
- Press Archives databases (frequently available on local newspapers' websites).
- Local capital market's information (the stock exchange's website including the listed companies' filings to the stock exchange, Boards announcements, local capital market discussion groups, alerts, etc.).
- Local credit insolvency information (when publicly available).
- Reverse phone directories (when publicly available).

Each IOSCO member taking part in this initiative on a voluntary basis and is responsible for building and updating its jurisdictions' profile, whereas the technical work required on the part of the IOSCO General Secretariat means responsibility for the maintenance of the platform. It is at the jurisdiction's sole discretion and responsibility to decide what information/hyperlinks to include in its profile, as well as to update this information if and when needed. Some jurisdictions' profiles may of course contain more detailed information than others, and in some cases the information is not likely, at least not in the short term, to be available in English but rather in the local language. It is important that each jurisdiction makes every effort to immediately inform the Portal's webmaster of any change in its profile, ensuring that the information included in its profile is always up to date.

The Portal includes hyperlinks to public information only. The access to the Portal is restricted to IOSCO members.

Until today 10 jurisdictions have expressed their willingness to join the Portal. Those jurisdictions were asked to build on their websites special sections including useful links for information sharing (in English if possible). In the meantime, the IOSCO General Secretariat has built special section on the IOSCO website where links to the jurisdictions websites' sections including useful links were put. The Portal was officially launched during the IOSCO EMC-WG4 meeting on 7 June 2010 in Montreal: https://www.iosco.org/members_area/fit_proper_portal/

I would like to encourage your jurisdictions to join Portal. Please contact Ms. Katarzyna Tomczyk, Secretary to the EMC-WG4 (katarzyna.tomczyk@knf.gov.pl) in order to discuss the details.

Finally, I am pleased to inform you that the next IOSCO EMC-WG4 meeting will take place during the IOSCO EMC Conference, held in Istanbul, Turkey on 13-15 October 2010 (exact day to be decided later). I hope that you and your Colleagues will join us then.

With my best regards,

Boguslaw Budzinski
IOSCO EMC-WG4 Chair
Director
International Cooperation Department
KNF - Polish Financial Supervision Authority
Pl. Powstancow Warszawy 1
00-950 Warszawa

Agenda item 13b-1

Screening Group and IOSCO General Secretariat Report on the implementation of the **Multilateral Memorandum of Understanding**

as of 06 October 2010

Emerging Markets Committee

Istanbul, Thursday 14th October 2010

Submitted by:

Georgina Philippou and Boguslaw Budzinski,
Co-Chairs of the IOSCO MMoU Screening Group

Greg Tanzer
IOSCO Secretary General

SCREENING GROUP: REVIEWING APPLICATIONS

In May 2002, the President's Committee approved the IOSCO Multilateral Memorandum of Understanding (the MMoU). In April 2005, it resolved that by 1 January 2010 all members of IOSCO should be signatories under Appendix A, or listed under Appendix B after having demonstrated a clear commitment to adopt such changes as may be required to allow them to become signatories. In June 2010, it resolved to pursue full implementation of the MMoU by asking all Appendix B members of IOSCO to apply to become full signatories to the MMoU by 1 January 2013.

The Screening Group is tasked with reviewing applications to the MMoU.

Progress update

Since the last report to the Emerging Markets Committee in June 2010 the Screening Group met on 21-22 September in Vancouver. The Screening Group considered one recommendation for a new MMoU signatory at its meeting, which was put to the Committee of Chairmen in Chennai on 30 September 2010, and approved as full signatory. The new approved signatory is The Securities and Exchange Commission of the Republic of Macedonia (MSEC), Former Yugoslav Republic of Macedonia, an Appendix-B listed member who has made a re-application to sign the MMoU.

- **Appendix B:**

In respect of members listed on Appendix B via the Fast Track Process, the following full MMoU compliance assessments conducted by the respective Verification Teams were approved by the Screening Group: Ecuador, Trinidad and Tobago, and Uganda. These jurisdictions will remain on Appendix B.

As at 4 October 2010, 71 members have signed the MMoU and are listed on Appendix A, 1 reapplication has been recently approved by the Decision Making Group, and 42 will remain listed on Appendix B.

Applications currently under review
The Screening Group has currently 10 MOU applications under active review.

Going Forward

The Co-Chairs, working with the Secretariat's MMoU Team, have prepared an implementation plan setting out the strategy for the Screening Group in 2010-12, including conducting a full assessment of each Appendix B jurisdiction whose application was resolved using the Fast Track process as well as plans for encouraging Appendix B jurisdictions to move towards a position where they are able to comply with the MMoU. The IOSCO Secretariat and the Screening Group are in on-going dialogue with the Appendix B jurisdictions who have been informed of the forthcoming 2013 deadline and to discuss, encourage and assist in the required change.

In addition, the Screening Group members have prepared short project plans for each Appendix B jurisdiction outlining the issues and giving indicative timelines according to

which it is expected that these jurisdictions will bring about the legislative or other changes necessary in order to be able to comply with the MMoU. These project plans are discussed by the Screening Group as a standing agenda item at each of its meetings.

Following discussion of the Project Plans at the Screening Group meeting in September 2010, it should be noted that there are cases of jurisdictions which project plans are lacking essential information, due to unresponsiveness by the relevant jurisdictions. In this respect, it is of the utmost importance that jurisdictions make contact with the pen-holders/ Verification Teams that were responsible for the assessment of the respective applications, in order to facilitate and to make available key information regarding the timeline and nature of the envisaged (legislative/other) amendments.

IOSCO GENERAL SECRETARIAT: PROGRESSING AND ENCOURAGING APPLICATIONS

IOSCO Strategic Review 2010 – 2015

Out of a total of 119 potential MMoU signatories, there are 4 members which have not yet submitted an application to join the MMoU, and 42 are listed on Appendix B. Amongst the latter, 38 are EMC members.

IOSCO resolved at the President's Committee meeting of 9 June 2010 in Montreal the review of the Strategic Direction, having reformulated its strategic mission and goals for the next five years, including pursuing full implementation of the IOSCO MMoU. For this purpose, a firm deadline of 1 January 2013 has been established for members listed on Appendix B to apply to become full signatories to the IOSCO MMoU. In addition, the Executive Committee has been tasked with creating a *watch list* after 1 January 2013 for members who fail to make an application to advance to Appendix A of the IOSCO MMoU.

The General Secretariat has developed an Action Plan for 2010-2012, which complements the Screening Group implementation plan. This Action Plan's main objective is to make sure that all IOSCO members that are listed on Appendix B to the IOSCO MMoU will apply to become full signatories by 1 January 2013, in compliance with the IOSCO Resolution on IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (June, 2010).

Progressing and encouraging applications for full signature

Since the last report, the General Secretariat has outreached the majority of jurisdictions that are currently listed on Appendix B. The outreach exercise has excluded for the time being those members who had already provided information on their plans to graduate from Appendix B status to full signatory, and those members which had been fast-tracked, therefore not having yet a full assessment report by the Verification Team.

In particular, in the past few months, the IOSCO Secretary General has sent letters to all relevant members and whose purpose was to convey IOSCO's interest in stimulating progress to be achieved by members in respect of applications to become full signatory to the IOSCO MMoU, and to stress the General Secretariat's availability to provide technical assistance and political support to achieve this target, while informing about the reformulation of IOSCO's strategic mission and goals for the next five years, particularly on the implementation of the

IOSCO MMoU and the 2013 deadline. Each member was asked to provide the General Secretariat with a detailed note on progress made since the date of listing on the MMoU Appendix B, as well as on envisaged next steps, in order to obtain the legal authority to become a signatory to the IOSCO MMoU, underlining any difficulties encountered.

In respect to the above, the IOSCO General Secretariat encourages EMC members who are currently listed on Appendix B to proactively contact IOSCO, namely the General Secretariat's MMoU Team and/or the relevant contact person(s) at Screening Group level (pen-holder/ Verification Team members).

Being conscious of the added complexity of the objective of meeting the 2013 deadline, in particular of the internal process that Appendix B members need to go through to become full signatories (e.g. at political/ level, and lengthy legislative processes), all the parties must stand ready to carry out additional efforts in achieving this goal, while making use of the assistance that IOSCO can provide, both at the political and technical level.

Jurisdictions should be aware, and make political instances aware in their respective jurisdictions, of the benefits of being an MMoU signatory:

- The ability to obtain key investigative information from overseas regulators, hence more effective enforcement investigations;
- Enhanced reputation and credibility of the capital markets;
- Likelihood of attracting increased capital flows and of experiencing a lowering in the cost capital;
- Not being a signatory can lead to reputational issues and international isolation, including a perception of lack of transparency – particularly as the number of MMoU signatories increases and jurisdictions who remain on Appendix B form an ever-smaller number;
- Other international financial organizations (e.g. the IMF, the World Bank) use the IOSCO Principles and Methodology when conducting their own assessments of jurisdictions;
- The G20 and Financial Stability Board consider whether a jurisdiction has signed the MMoU in assessing its standards – this may influence decisions about whether a given jurisdiction should be on a "blacklist".

- **Outreached jurisdictions:**

As of 04 October 2010, out of the 43 jurisdictions that have been invited to be listed on Appendix B, the General Secretariat wrote to **31 of them**, amongst which **28 are EMC members**. We have obtained a response from **20 jurisdictions**, amongst which **17 are EMC members**.

Amongst the members who have already responded, a large number of jurisdictions informed that steps have already been taken or are currently being taken in making the necessary legislative changes to address the gaps identified in the Screening Group's report, in order to fully comply with all MMoU requirements. Amongst these members, some are being provided with technical assistance by external advisors.

Some jurisdictions reported to have concluded the process of introducing legislative amendments, or other measures, and conveyed their intention to reapply soon.

One member has indicated that it is likely to request IOSCO's political support, in connection with the legislative reform that is being prepared in the respective jurisdiction.

- **Technical advice requested on proposed legislative amendments**

Several jurisdictions have requested technical advice with respect to proposed legislative amendments.

The General Secretariat has put significant effort in the provision of this technical advice, in good coordination with members of the Screening Group's Verification Teams who were tasked with the assessment of the original MMoU applications.

Specifically, the General Secretariat has received requests for technical advice from 5 jurisdictions, these being **all EMC members**, which referred to the pre-assessment of the adequacy of proposed amendments for compliance with the IOSCO MMoU. Amongst these requests, one member requested assistance for the purpose of compliance with both the MMoU and with the remaining IOSCO Principles, more broadly.

In relation to 3 of the 5 requesting members, the provision of advice has been organized through the formation of working groups (MMoU Team from the General Secretariat and members of the Verification Teams responsible for the assessment of the MMoU applications), for the pre-assessment of the draft legal amendments submitted by the members. This is done remotely and through meetings and it is ongoing.

In respect of the 4th request, the advice is being provided remotely by the pen-holder of the Verification Team that assessed its MMoU reapplication.

The remaining request relates to a general reform of the securities legislative framework and the member is seeking technical advice through an external advisor, in parallel to seeking IOSCO's direct support.

The General Secretariat will continue to follow-up with those members which have not yet provided their feedback on the measures being taken to achieve full signatory status, until 1 January 2013.

The General Secretariat will also continue to coordinate, in close collaboration with the Screening Group/ Verification Teams, the provision of guidance/technical advice on whether proposed legislative amendments will be satisfactory in terms of meeting the standards of the MMoU. The General Secretariat may alternatively arrange for external support (external advisors). However, it should be noted that the final decision on the applications for full signature will be taken by the Screening Group, and ultimately by the IOSCO Decision Making Group (Three Chairs).

- **Reapplications for full signature**

Since June 2010, 4 jurisdictions - all EMC members - have formally reapplied to become full signatories to the IOSCO MMoU. Out of the 4 applicants 2 have been reallocated to the original Verification Team for reassessment, out of which one was accepted as an MMoU signatory at the Three Chairs meeting in Chennai on 30 September 2010.

The remaining 2 reapplications were analysed by the General Secretariat in terms of its completeness and accuracy and have been found to require enhancement. Additional guidance has been provided by the General Secretariat in order for the reapplications to be of sufficient quality to be assessed by the respective Verification Teams.

In addition, the IOSCO General Secretariat has produced a ***Guidance Note (see Appendix 1)*** to assist reapplications to be of sufficient quality and to comply with the reapplication procedure.

Members listed on Appendix B to the IOSCO MMoU, who wish to reapply to become full signatories, shall follow the procedure described below:

1. **Submit to the IOSCO General Secretariat a re-application** containing the relevant material that refers to the changes/legislative amendments carried out (copies of relevant laws, rules, regulations, or other) to address the issue(s) that have been identified in the Screening Group Report as not being in full compliance with the MMoU requirements.
2. **Revise the relevant response(s)** to the MMoU Questionnaire in order to reflect the changes that have been made *vis-à-vis* the original application.
3. **Confirm the continued accuracy** of the information provided in the original MMoU application.
4. **Send reapplication to the IOSCO Secretary General,** to the following Email address: mou@iosco.org

Non-applicants

The General Secretariat has continued its outreach to the outstanding members from Bolivia, Honduras, Kyrgyz Republic and Ukraine. Some progress has been achieved with 2 of the remaining 4 non-applicants (members from Honduras and Ukraine), while in respect of the members from Bolivia and Kyrgyz Republic there has been no further news, since the last report. The General Secretariat will continue its efforts to encourage and assist these members to submit their applications.

Agenda item 12

Short Note from WG5

WG5 is currently working on a WG5 /SC5 joint project on suspension of fund redemption, which has received formal approval at the last EMCAB meeting in Montreal. The SC5 started the project last year, and considering that the suspension of fund redemption is a very important issue in many EMC member jurisdictions, the WG5 joined the project team this February. The same questionnaire used by SC5 was sent out to EMC members in mid March of 2010 and 19 responses have been collected by the end of August 2010.

At the last WG5 meeting held in June 2010, Ms. Qiumei YANG, WG5 Chairman presented the preliminary results of the questionnaire feedbacks. At the WG5 meeting this morning, Ms.YANG delivered a progress report on the WG5 /SC5 joint project on suspension of fund redemption, which presented the experience and main principles governing suspensions of redemptions in the various EMC member jurisdictions. Respondents' answers to 18 selected questions in the questionnaire were summarized and analysed, such as the the context of suspension and type of affected funds, legal framework relating to the suspension of redemption and repurchase of funds, criteria for suspension, maximum duration for suspension,etc. WG5 is seeking the approval of EMC for the final report. Since the SC5 is still working on the principles on suspensions, WG5 will work together with SC5 in the following months to make sure that theSC5 final report on suspension of fund redemption touches the issues in EMC jurisdictions.

Regarding future work for the Group, Ms.Yang has communicated with members this morning. It is agree that WG5 will watch market developments closely and try to find possible new mandates.

Agenda item 7

Task Force on Corporate Bonds

Cover Note for EMC Plenary Meeting on October 14, 2010

The EMC Advisory Board approved the formation of Task Force on Corporate Bonds in collaboration with World Bank. The Task force comprises of 23 members and is chaired by Datuk Ranjit Ajit Singh, Managing Director and Executive Director, Market Supervision, SC and Mr. Prashant Saran, Whole Time Member, SEBI. The objective of the task force is to conduct a fact-finding survey on the state of development in corporate bond markets in emerging economies, to identify the key regulatory policies that have helped the development, finding factors inhibiting such growth and recommending principles to EMC jurisdictions, for sound development of Corporate Bond Markets.

A questionnaire was prepared and circulated to EMC jurisdictions in June 2010, Responses were received by July 2010 and Data were compiled and circulated by September, 2010. An update of the same was also given to the EMC Advisory Board Meeting in Chennai.

35 jurisdictions responded to the questionnaire. As per the preliminary analysis, the survey shows that largely the corporate bond markets are still underdeveloped in the majority of emerging market jurisdictions and there are significant information gaps in regard to the size and market practices of corporate bond markets in emerging market jurisdictions.

The preliminary findings of the survey are placed before the Emerging Markets Committee.

IOSCO Emerging Markets Committee
Working Group on Regulation of Market Intermediaries (WG3)

FSS Korea's Mandate Proposal (Agenda item WG3 e-3)

Addressing Liquidity Risk of Securities Firms in Emerging Markets: Comparison of Regulatory Frameworks and Recommendations for Regulators

Background

Traditionally, prudential liquidity risk management and supervision has evolved under the purview of banking supervision, as banks tend to encounter the maturity mismatch between their primary assets (loans) and liabilities (deposits). The maturity of bank assets is usually much longer than that of bank liabilities, and managing the maturity mismatch is one of the key issues in bank management.

In contrast, securities firms have a simpler asset-liability structure in their normal course of dealing and brokerage operations and have thus been subject to liquidity risk and the regulation thereof to a lesser extent. However, with the rapid growth of derivatives markets and the proliferation of structured financial products, securities firms of a larger size tend to engage increasingly in those alternative markets and products, and their business models and risks have become more complicated than ever. This tendency of securities firms expanding their boundaries into nontraditional businesses is often observed in emerging markets as well, although it is something that we less frequently observe than in developed markets.

As a consequence, new and innovative types of assets and liabilities began to appear on the balance sheets of securities firms in emerging markets, which calls for more regulatory attention to sound liquidity risk management by securities firms. The need to take a fresh look at and improve how securities regulators supervise the liquidity risk of securities firms is reinforced by Principle 30 of the IOSCO Objectives and Principles of Securities Regulation which states:

> *"There should be initial and ongoing capital and other prudential requirements for market intermediaries that reflect the risks that the intermediaries undertake."*

Purpose of the Project

The primary intent behind the net capital approach to capital adequacy regulation for securities firms is to put some restraints on the degree of leverage they may use, as well as their exposures to market risk and credit risk. It also deals with liquidity risk to some degree by eliminating illiquid capital instruments from the computation of capital base. For this reason and others such as the relatively simple asset-liability structure of traditional securities firms, it is not uncommon that securities regulators do not have a separate set of rules and

regulations in place to address liquidity risk of market intermediaries operating in their jurisdictions.

As seen during the recent global financial crisis, however, failures to manage liquidity risk thoroughly contributed to the collapse of large financial firms that then appeared to be well capitalized, and this in turn aggravated the market confidence crisis with contagious effects. In recognition of the lessons drawn from the crisis, securities regulators need to be mindful of the greater-than-ever importance of proper regulation on liquidity risk facing securities firms, in particular, those of a larger size having a greater influence in their markets.

Under this mandate, the first task would be to conduct comparison of regulatory approaches in emerging markets to identifying, measuring, monitoring, and controlling liquidity risk that securities firms encounter in their day-to-day operations. And then, regulatory recommendations may be derived from the common cores of strategies and/or regulations being employed in the member jurisdictions, so that EMC regulators may consult with them in addressing the risk of liquidity failures at securities firms in their jurisdictions. The mandate may also include exploring industry best practices and incorporating them in the final recommendations as appropriately applicable.

Scope

The Working Group 3 will:

1. Study relevant literature;
2. Conduct a fact-finding survey on the following items;
   - The size of securities firms and the complexity of their business models in each jurisdiction (this item to be only applicable to securities firms that are regulated with respect to liquidity risk management);
   - The types and sources of liquidity risk that securities firms face in both sides of the balance sheet (i.e., market liquidity risk and funding liquidity risk);
   - Industry best practices for sound liquidity risk management (both quantitative and qualitative) in each jurisdiction;
   - EMC members' regulatory approaches to how securities firms manage liquidity risk, including any changes and modifications triggered by the global financial crisis; and
   - Regulatory challenges and considerations as well as any ongoing improvements to liquidity regulation
3. Compile and analyze the survey results for useful regulatory elements;
4. Develop recommendations for EMC regulators to ensure efficient regulation on the liquidity risk of securities firms; and
5. Determine whether it is appropriate to relate this mandate to the efforts of work streams that are being or have been taken by TC SC3 and others.

Deliverables

The deliverables to EMC members would be:

1. A summary of relevant literature (optional);
2. A survey questionnaire;
3. A summary of findings from the survey; and
4. A final report of the project including recommendations.

Approach and resources required

A project team of 5 to 6 members including the co-chairs of WG3 will be formed. If there are not a sufficient number of volunteers, the co-chairs may contact some major jurisdictions in the EMC and request them to participate in the team.

The team will conduct desk research on liquidity risk management and regulation with relevant literature and develop a survey questionnaire for circulation among the EMC membership to obtain relevant information for the project. Using the information gathered from the survey and the literature study results, the team will draft the final report of the project for publication as an IOSCO EMC report.

Schedule

The provisional work plan is proposed as follows:

Task/Activity	Date
Discuss mandate proposals	Oct 14, 2010 (WG3 meeting)
Solicit sign-ups for the project team	Oct 2010 (Possibly at the WG3 meeting)
Seek approval from the EMC Advisory Board for the (updated) mandate	Oct 2010
Initiate study on relevant literature	Nov 2010
Prepare detailed TOR and seek approval from the EMC Advisory Board	Jan 2011 (EMCAB meeting in Brazil)
Draft a summary of relevant literature	Feb 2011
Draft a survey questionnaire	Mar 2011
Discuss the summary of relevant literature and the survey questionnaire	Apr 2011 (IOSCO Annual Conference in South Africa)
Circulate the questionnaire for responses from members	May 2011
Deadline for the submission of questionnaire responses	July 2011
Draft the summary of responses	Aug 2011

Circulate the draft summary of responses	Sept 2011
Discuss the summary of responses	Oct 2011 (EMC Annual Conference)
Draft a comprehensive report of the project	Feb 2012
Circulate the draft report to EMC members for comments	Mar 2012
Circulate the draft final report	May 2012
Seek EMC approval for the publication of the final report	June 2012 (IOSCO Annual Conference in China)

Agenda item WG3 e-1-1

Emerging Markets Committee Working Group on Regulation of Market Intermediaries (WG3)

Proposal for the mandate on the "nominee accounts" in emerging markets

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Background

The experience of the recent financial crisis revealed the importance of having rules in place for aspects related to short selling, securities lending and nominee accounts. Thus, the necessity of introducing requirements for market intermediaries to develop internal control mechanisms and procedures related to the nominee accounts has become more stringent in order to assure an adequate supervision and to increase the investors' confidence in the market.

The use of the nominee accounts by the market intermediaries is related to several regulatory and supervisory issues related to the ownership, especially in what concerns the identification of the securities beneficial owner.

The issue related to the client identification and beneficial ownership has been identified as well in the *IOSCO Principles on Client identification and beneficial ownership for the securities industry (2004)* but it is necessary to extend it to the topic related to short selling, securities lending and nominee accounts.

Purpose and scope of the mandate

The main goal of the mandate is to develop guidelines for the creation of appropriate internal control mechanisms/procedures for the "nominee accounts" in order to strengthen the investor's protection.

The deliverable of the mandate will be a report based on the feed-back provided by the EMC members, report that will stress out the importance for the supervisory authorities and market intermediaries of having in place adequate mechanisms/procedures in order to keep the information on their clients safe. Also, it must be mandatory for the internal control mechanisms to be able to implement and use the software in order to know the client identity as well as their ownership.

Feed-back is expected from the EMC members in what concern:

- Regulatory requirements for market intermediaries in what concern the internal control mechanisms;
- Issued related to the practice of using the nominee accounts;
- The short-selling regime and securities lending related to the matter of the nominee accounts and ;

Deliverables

The deliverables to EMC members would be:

1. A survey questionnaire addressed to the EMC members;
2. A summary of findings from the survey;
3. A final report of the project including guidelines.

Intended Approach and Output

The work will be performed by circulating the questionnaire to EMC members. A project team comprised of 3 or 4 members, led by the EMC WG3 chairs, may be formed to share the tasks of the mandate. Most of the necessary undertakings will be carried out via electronic means and remote virtual meetings.

After analyzing the information provided by the responding members, WG3 will produce a comprehensive report providing guidelines on how to put in place mechanisms/procedures for the "nominee accounts".

Agenda item f

PROGRESS REPORT OF STANDING COMMITTEE 2 (SC2)
ON THE REGULATION OF SECONDARY MARKETS

The Standing Committee 2 (TCSC-2) last met on 27 - 28 April 2010. The next TCSC-2 meeting is scheduled on 20 - 21 October 2010 in San Francisco, with pre-meetings of subgroups taking place on 19 October 2010.

Status of On-going Mandates

1. **Potential TCSC-2 work on "High Frequency Trading"**

At its meeting on 27-28 April 2010 in Paris TCSC-2 agreed to collect and share information on issues relating to High Frequency Trading (HFT) with the aim to decide on the parameters of a potential mandate. On this basis and subject to comments by member jurisdictions, TCSC-2 proposes a new mandate in the area of HFT. The proposed mandate seeks to gain an understanding of potential benefits and detriments of High Frequency Trading and will consider the necessity and appropriateness of regulatory action.

In part 1 of this workstream the focus is on deepening the understanding of HFT. A clear definition of HFT needs to be developed and meetings with industry representatives be held in order to get a more comprehensive picture of the actual effects of HFT on market infrastructure. Several presentations by market participants and academics are planned for the up-coming SC2 meeting in San Francisco, covering the regions of North America, Europe and Asia/Australia. In part 2 it will be analysed if and in which ways a regulatory response is needed. Possibly, guidance will be developed in form of IOSCO principles dealing with expected conduct of market participants and mitigation of risks associated with HFT.

TC approved the mandate at its recent meeting in Chennai, India on 1 October.

2. **Proposal to create a Technical Committee Task Force on Derivatives Regulation in the context of the existing mandate on "Non-CDS OTC Derivatives Markets"**

TC agreed to the suggestion by the US SEC and US CFTC to establish an IOSCO Task Force on Derivatives Regulation managing international coordination of national regulatory legislation and measures on derivatives. Issues to be covered in this group include among others clearing eligibility, clearing requirements, trade reporting and prudential requirements.

To note that a new mandate for TCSC-2 on non-CDS OTC Derivatives Markets is currently on hold in order to await the findings of the Financial Stability Board (FSB) Steering Committee Working Group on OTC Derivatives (WG).

3. TCSC-2 report: "Issues Raised by "Dark" Liquidity" (Consultation Report)

At the TC meeting in Washington D.C. in February 2009, the mandate for TCSC-2 "Issues Raised by "Dark" Liquidity" was approved. TCSC-2 has now finalised a consultation report. This report presents at first past and up-to-date initiatives like the IOSCO Transparency Report (2001) and the CESR Technical Advice in the context of the MiFID Review. The latter one is of importance, as it contains measures for a more intensive regulation of pre-trade transparency waivers and broker crossing systems (BCS). Subsequently characteristics of "dark pools" are elaborated on, concentrating on exemptions of pre-trade transparency. Also, different regulatory frameworks of various jurisdictions are presented. There are concerns about "dark trading", namely potential impairments to price discovery, fair and equal market access and also the potential fragmentation of information and liquidity.

In order to address these concerns, principles addressing regulatory concerns with respect to price discovery, fragmentation of information and liquidity, and fairness and market integrity, were developed in the report. The principles relate to pre- and post-trade transparency, priority of transparent orders, reporting of trade information to regulators, and information available to market participants about dark pools and dark orders.

4. Publication of Final Report on "Principles for Direct Electronic Access to Markets"

TCSC-2 discussed the DEA Report at its meeting in Paris on 27-28 April 2010. After consideration of the final DEA Report by TCSC-3 at its meeting in San Francisco on 26-28 May 2010 and the completion of internal approval processes by member jurisdictions, the final DEA Report was approved by the TC in written procedure soon after the TC meeting in Montreal. The Final Report was published at IOSCO's website on 12 August 2010.

5. Publication of Final Report on "Transparency of Structured Finance Products"

After approval of the Final Report by the TC it was published at IOSCO's website on 9 July 2010.

Emerging Markets Committee Working Group on Regulation of Market Intermediaries (WG3)

Proposal for the mandate on the guidelines for appropriate ownership and governance structure for market intermediaries in emerging markets (Agenda item WG3 e-2)

Background

Corporate governance infuses the values of fairness, accountability, responsibility, and transparency into market intermediaries. Lack of knowledge and applicability about the needs and benefits of corporate governance standards for market intermediaries is one of the main issues for emerging market economies. In most emerging economies, market intermediaries are characterized by concentrated ownership, controlled by individuals, a group of individuals or a family. The concentration of ownership in an intermediary is important in evaluating mechanisms for corporate governance.

Purpose and scope of the mandate

The main goal of the mandate is to develop guidelines for appropriate ownership and governance structure of market intermediaries which may be useful for the EMC members to establish an effective regulatory system for market intermediaries.

This study on concentration of ownership and governance standards in market intermediaries is important for emerging markets as appropriate standards can help building investor's confidence on the efficient functioning of the markets.

WG3 intends to produce a report highlighting the importance placed on corporate governance standards in market intermediaries of emerging markets and the concentration of ownership that exists among intermediaries in emerging markets, in order to create suitable guidelines for effective governance of market intermediaries. Feedback is intended to be gathered from the EMC members in order to:

1. identify the ownership structure of market intermediaries in EMC member jurisdictions and the regulations in place to enforce corporate governance standards, and
2. compare the detail of regulations in responding jurisdictions to create suitable guidelines which build investor's confidence on the efficient functioning of market intermediaries.

The focus of the mandate will be limited to the market intermediaries in the jurisdictions of the IOSCO Emerging Markets Committee members, and the questionnaire will contain the following topics among others:

- The structure of ownership of market intermediaries in emerging markets, including the concentration of ownership which exists.

- The regulations or controls in place to enforce standards of corporate governance in EMC jurisdictions and the effectiveness of such standards in market intermediaries.

- Problems faced in implementation of governance standards for market intermediaries.

Intended Approach and Output

The work will be performed by circulating the questionnaire to EMC members. A project team comprised of 2 or 3 members, led by the EMC WG3 chairs, may be formed to share the tasks of the mandate. Most of the necessary undertakings will be carried out via electronic means and remote virtual meetings considering the circumstances of members that have important responsibilities to fulfill in the domestic jurisdictions.

After analyzing the information provided by the responding members, WG3 will produce a comprehensive report providing the guidance on the core issues regarding concentration of ownership and standards of governance in market intermediaries in EMC jurisdictions. Should this report be considered valuable to all IOSCO members, further consultation would be recommended for the appropriate reflection of the guidance in the IOSCO principles.

Timetable

Task/Activity	**Timeline**
Seek EMC Advisory Board and Emerging Markets Committee comments on the proposed mandate on the guidance for the efficient regulation of the conflict of interests facing market intermediaries	October 2010
Approval of the new mandate	
Create ToR for the mandate	December, 2010
Draft and discuss questionnaire	February 2011
Circulate the questionnaire for response from members	March 2011
Deadline for the submission of questionnaire responses	April 2011
Complete responses from members, prepare the draft of the summary of responses	June 2011
Circulate the summary of responses of the questionnaire	June 2011
Draft the final report	August 2011
Circulate the draft final report	September 2011
Seek the EMC approval for the publication of the final report	October 2011

Agenda item WG5 d-1

WG5 Feedback Statement of the Responses Received in Relation to the WG5/SC5 Joint Project on Suspension of Redemption

Introduction

In light of the recent financial crisis, where some collective investment scheme (CIS) management companies were unable to meet redemption requirements, IOSCO SC5 received a formal mandate for the development of general principles regarding suspensions of redemptions in February 2010.

Since the suspension of fund redemption is also a very important issue in EMC jurisdictions, the Chair of WG5 proposed to the SC5 at its Madrid meeting (held Feb.23-24, 2010) to form a joint project between SC5 and WG5. The idea was warmly welcomed by the members and was approved by the SC5 in Feb.2010 and later on by the EMCCAB at its June 2010 Montreal Meeting. The same questionnaire used by SC5 was sent out to EMC members in mid March of 2010 and 19 responses have been collected by the end of August 2010. Respondents are Chile, China, Dubai, Egypt, Hungary, India, Israel, Korea, Malaysia, Nigeria, Oman, Pakistan, Panama, Poland, Romania, Slovenia, South Africa, Thailand, and Turkey.

The purpose of this feedback statement is to present the experience and main principles (whether legal, regulatory or else) governing the suspension of redemptions in the various EMC member jurisdictions. Respondents' feedbacks to 18 selected questions in the questionnaire are summarized in the following report.

* * *

Item 1: Members' experience with respect to suspension of redemptions

1.) Have you already had to deal with the suspension of the redemption and repurchase of CIS-units on your national market?

11 Members had to deal with suspensions: **Chile, Korea, Hungary, India, Israel, Nigeria, Pakistan, Poland, Romania, South Africa** and **Thailand**. 8 Members with no experience of suspensions: **China, Dubai, Egypt, Malaysia, Oman, Pakistan, Slovenia** and **Turkey**.

2.) If yes, please identify the context and type of affected CIS (e.g. money market funds, property funds) and 3.)How long were/are the suspension periods for?

WG5 members had different experience in relation to the context or types of CIS affected and in relation to the suspension periods. Respondents report suspensions occurred mainly in equity funds, debt funds, money market funds, only in a few cases in real-estate funds or derivative funds. The causes of suspensions include liquidity problems, the 2008 global financial crisis, the closure of specific stock exchanges and markets (e.g. the 9/11 incident), regional financial crisis (**Chile, Thailand**) and interest rate hike (**Hungary**). The suspension

periods vary between a few days to one year, depending on particular circumstances. Details see below:

- **Chile**: Suspension happened during the crisis of local banks in 1980s, in a couple of cases of fraud in 2003 and during the 9/11 terrorist attack. There were no specific funds affected. The suspension periods reached from one day (9/11) to the end of intervention process until all fund assets were liquidated.

- **Korea**: Redemption of debt instruments issued by Eaewoo Group and SK Global were suspended in 1999 &2003 respectively due to lack of liquidity; several derivative funds also experienced suspension in 2008 due to the global financial crisis. Fixed income funds, equity funds and derivative funds were affected and the suspension period was about one year.

- **Hungary**: The suspension happened in early November 2008 and applied only to the open-ended real estate funds (incl. funds of real estate funds). The cause of the suspension was the sharp interest rates hike by Hungarian National Bank. The suspension period lasted 10 working days.

- **India** reported liquidity problems mainly for money market, debt or cash funds.

- **Israel**: During the recent financial crisis, two Israeli funds which used investment strategies based on Icelandic securities suspended redemption and repurchase of CIS units. The suspension periods were one month and six months respectively.

- In **Nigeria**, mainly equity funds had been affected and the suspension period is indefinite.

- In **Pakistan**, all funds with direct exposure to equity-related securities remained suspended from October 2008 to December 2008. Due to liquidity crunch and valuation difficulty of debt instruments, income dominated funds remained suspended for a month on average with few exceptions where the suspension lasted for three months.

- **Poland** recognized the suspension of 3 debt instruments funds and quasi-MMFs for 4 days.

- **Romania** had dealt with the suspension of the redemption and/or repurchase of Romanian CIS-units in the following cases: the merger of two CIS, the replacement of the UCITS depository, during the non-banking days, during the chancing of the IT system of the asset management/depository in order to apply new valuation method of the UCITS assets improved through the legislation. The suspension period normally varies between 2 working days (in case of transfer UCITS assets to another depository) and 90 days (in case of open ended funds mergers), depending on the cases of suspension.

- **South Africa**: Only participatory interests in CIS in securities may be suspended. Participatory interests in a CIS in property must be listed on an exchange where trading takes place and may only be suspended according to the rules of that exchange. The period of suspension is up to 20 days depending on the type of instruments included in a portfolio.

- **Thailand**: The SEC Office ordered asset management companies to cease to accept purchase or redemption orders of all open-ended mutual funds for a day during the 9/11 incident. Also, in the 1997 financial crisis, to protect the interests of unit-holders of daily redemption fixed income funds which invested in promissory notes issued by troubled financial institutions, asset management companies of such funds obtained approval from the SEC Office to cease to accept redemption orders for 14 days.

4.) Have you undertaken any investigation or any other measures? If so, please describe.

Except **Chile** and **India**, the remaining 9 WG5 members with experience of suspensions had undertaken investigations or other measures in relation to the suspended funds. Nevertheless, Chile explained that there is no need for the SVS to take actions since all suspensions have to be decreed by the SVS.

Nigeria and **Thailand** conducted investigations or reviews to determine the general state of the funds concerned. **Korea, Israel, Pakistan, Poland** and **Romania** kept close contact with the fund managers and monitored the situation. In **Hungary**, the managers of the suspended funds were required to modify the prospectuses and disclose the volume of redemption on a daily basis. Special monitoring arrangements were employed in **Romania** depending on the different reasons of suspensions. Also the legislation in **South Africa** provided for the segregation of assets up to the value of the suspension. Notably, **Pakistan** held meetings with fund managers and board of directors to explore the possibilities of generating additional cash flows and discuss feasible action plans.

5.) Do you have experience with redemption gates[1], with side pockets[2] or with redemption in kind[3] within a CIS, or sub-fund of an umbrella CIS? If yes, do you have a definition (please provide)? What kind of funds made use of side pockets (only funds for sophisticated investors or retail funds as well; only hedge funds/funds of hedge funds or securities funds as well)? How have these side pockets been used in practice?

Countries not having any practical experience with either redemption gates, side pockets or redemption in kind or not allowing for theses measures are **Hungary, India, Israel, Nigeria, Pakistan, Poland[4], and Romania.** The remaining four respondents with experience of suspensions allowed at least one of the instruments.

In the case of suspensions caused by fraud in **Chile,** SVS required that every mutual fund, if held securities involved in the fraud, had to put it in a separated account (from liquid assets).

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[1] In practice, the activation of such gates is usually decided for the purpose of dealing with an illiquidity issue before the actual setting up of side pockets.

[2] Side pockets are a type of account used to separate illiquid assets from other more liquid assets of a CIS. This allows the CIS to maintain redemptions requests on the liquid assets of the portfolio. Investors will get their investment back from the side pockets when such assets can be liquidated.

[3] The redemption of units in securities instead of cash.

[4] The Act on Investment Funds of Poland has provisions regarding the redemption gates.

In **Korea**, the Korean law currently does not provide a precise definition of "redemption gate." And it has no experience with "redemption gate." "Side pockets" and "redemption in kind" are defined by the Korean law and Korea has an experience of "side pockets."

In **South Africa**, although legislation does not use the phrases as defined, it does provide for the segregation of assets up to the value of the suspension. All funds may make use of the provisions of suspension. Segregation may be used whenever the manager receives a notice of repurchase in excess of five per cent of the net assets value of the fund.

Redemption gates are not permitted under the regulations in **Thailand**. In terms of Side pockets, in case of potential default, such debt instruments or claim shall not be taken into account in calculation of NAV and asset management companies shall make certain that the unit holders as of such date will be entitled to the net proceeds from the set-aside assets. As to redemption in kind, asset management companies shall pay in kind (in the form of securities or other assets in lieu of cash) only when relevant conditions and procedures are clearly specified in the scheme documents. However, such procedures must be practicable and fair to all unit holders of such open-ended fund.

6.) Have the suspensions you experienced actually led to the closure/winding up of CIS?

No cases of closures due to suspensions have been reported by **Hungary, India, Israel, Nigeria, Pakistan, Poland** and **Thailand**, while the other 4 members have experienced the closure of funds after suspensions.

Chile reported that only suspension with intervention led to fund liquidation. In **Korea**, the suspension of redemptions did not lead to an immediate closure/winding up of CIS since "redemption in kind" was not a viable option practically, however, related funds closed/ winded up eventually. **Romania** noted that suspension led to the closure of the merging CIS in case of CIS mergers. In **South Africa**, one fund was placed under curatorship as a result of fraudulent activities.

Item 2: Rules at national level

7.) Are there any written rules in your jurisdiction's legal framework relating to the suspension of redemption and repurchase of CIS? Do you implement IOSCO Principles? If yes, please describe the types of regulations employed.

All 19 responding jurisdictions have written rules in their legal framework relating to the suspension of redemption of CIS, and in 9 jurisdictions such rules are at the level of an act or law (**China, Egypt, Korea, Hungary, Israel, Oman, Poland, Romania** and **Slovenia**).

Among these 9 jurisdictions, **India** makes demands on suspension of redemptions via a circular dated May 23, 2008. Also **Malaysia** has specific provisions regarding suspension of dealing in units in the Guidelines on Unit Trusts Fund. In **South Africa**, the provisions related to suspensions are contained in subordinate legislation issued by the registrar, while in **Thailand**, such provisions are set out in a notification issued by the Thailand SEC. In **Turkey**, the rules governing suspension of redemptions can be found in the Communiqué on

Principles Regarding Mutual Funds. In the remaining 5 member states, the exact level of the written rules on suspension was not specified.

Besides, 8 jurisdictions confirmed that they have implemented generally or partially (**Panama**) the IOSCO principles.

8.) What are the paramount principles in your jurisdiction's legal framework applying to the suspension of redemption and repurchase of CIS?

In many EMC jurisdictions the paramount principles are that suspensions are only possible under exceptional or extraordinary circumstances (**China, Dubai, Hungary, Malaysia**[5], **Nigeria, Oman, Pakistan, Romania, Slovenia, and Turkey**). In 8 WG5 members (**Chile, Egypt, Israel, Malaysia, Panama, Romania, Slovenia** and **Turkey**), protecting the interests of investors is the paramount principle. Also, Korea and Thailand reported also the equal treatment of all investors as their principle.

Moreover, **China, Dubai, Pakistan** mentioned the ex-ante disclosure of the possibility and circumstances of suspension or redemption restrictions in disclosure documents or funds constitutive documents as their main principles. Some members also indicate the ex-post notification to the authority (**Dubai, Korea, Oman**) and to the investors (**China, Israel, Oman, Thailand, Turkey**) as principles. The information to the regulator has to occur before the suspension in **India** and on the same day in **China**. Moreover, in **Israel,** the suspension must be either ordered by, or approved by the regulator on a case by case basis. **South Africa** highlights illiquidity in the portfolio as one of applicable principles for suspension of redemptions.

9.) Are there any informal procedures or supervisory practices aimed at dealing with such situations?

11 respondents report no informal procedures or supervisory practices aimed at dealing with the suspension of redemption and repurchase of CIS in their jurisdictions. They are **Chile, China, India, Israel, Oman, Panama, Poland, Malaysia, Slovenia, South Africa** and **Turkey**.

Korea, Hungary, Egypt and **Pakistan** mentioned monitoring on an ongoing basis of the liquidity positions of fund managers as informal supervisory practice in place. Other informal procedures or regulatory practices indicated by respondents include close contacts with fund managers and other investment service providers through meetings and discussions (**Hungary, Poland, Pakistan** and **Thailand**) and routine inspections (**Dubai, Nigeria**).

10.) Does your national legal framework allow the competent authority to require the suspension of the re-purchase or redemption of units in the interest of the unit-holders or of the public? If so please describe the circumstances in which this would be invoked.

[5] Malaysia and Slovenia did not provide explicit answers in this part; related conclusions were drawn from its responses to questions in other parts.

2) a stock exchange has decided to suspend trading on a temporary basis, according to the law and as a result fund manager is unable to calculate the net asset value of the fund on such day;
3) other special circumstances specified in the fund contract.

In **Egypt**, the legislation provides four cases as exceptional cases justifying supervision of redemptions:
1) The applications to secede from the fund are coincided and increased in a manner rendering investment manager unable to accept same,
2) The ability of fund management company to transfer the securities contained in the fund's portfolio into cash for reasons out of its control,
3) Reduction of the value of securities comprising the fund's portfolio, as a result of a sudden decrease of prices of these securities, which consequently lead to devaluation of fund's assets in noticeable manner, and
4) Force majeure cases.

In **Korea**, four cases are defined by law, in which the collective investment business entity may postpone the redemption of the collective investment securities.
1) where a collective investment scheme cannot make redemptions on the grounds of impracticality to dispose of collective investment properties;
2) where it is likely to undermine fairness to investors:
3) Where a broker or dealer, collective investment manager, trust company, investment company, etc. that receives the claims or requests for redemption is unable to redeem collective investment securities due to dissolution, etc.; or
4) Other grounds equivalent to those under subparagraphs 1 through 3, which are recognized by the Financial Services Commission as deferral of redemption is necessary.

In **Hungary** the extraordinary circumstances under which the investment company may suspend the continuous distribution of CIS is defined as the following:
1) the fund's net asset value cannot be determined, in particular if the trading of the given securities within the fund is suspended and these securities represent more than ten per cent of the fund's own capital; or
2) If the technical requirements for trading are not satisfied in at least half of the points of sale.

In **Poland**, aaccording to the Act on Investment Funds, there are two cases in which investment funds are allowed to suspend redemption of their units. First, in the preceding two weeks, the aggregate value of the units redeemed or requested to be redeemed by the fund exceeds 10% of the value of the fund's assets; second, it is not possible to make a reliable valuation of a material part of the fund's assets for reasons beyond the fund's control.

In **South Africa**, the applicable circumstances include the following cases: there must be illiquidity in the portfolio; a manager is unable to dispose off assets to pay for the repurchase; the repurchase must be in excess of 5% of the aggregate value of the portfolio (the 5% must be calculated after the deduction of any sales). If 10 business days notice has been given, the manager may not suspend. Also, amounts less than R50 000 may not be suspended.

18.) Do you define criteria for identifying when suspension is in the interests of unit-holders (please describe them) or do you deal with this on a case-by-case basis?

Except Korea, all other respondents deal with this issue on a case-by-case basis.

The Korean law provides the requirements for redemption suspension in detailed and determinative manner. It has defined 3 cases when the fairness to investors to investors is likely to be undermined:
(a) Where the disposal of collective investment properties is likely to undermine the interests of other investors due to occurrence of default, etc.;
(b) Where the acceptance of a request for redemption is likely to undermine the interests of other investors because the assets belonging to the collective investment properties have no market prices; or
(c) Where the acceptance of a request claim for mass redemption is likely to undermine fairness to investors.

It is also important to note that, in many EMC members, though the criteria for identifying when suspension is in the interests of unit-holders, the primary purpose of suspensions is usually the protection of investor interests.

Item 4: Rules governing the suspension period (formal and informal)

21.) Do you define specific requirements concerning the notification of the suspension to the authority? If yes, please describe[6].

3 respondents **(Egypt, India, and Pakistan)** require the notification to the authority prior to the suspension. In **Pakistan**, The asset management companies are under obligation to suspend issuance or redemption of units of CIS under prior intimation to the regulator. According to the legislation in **Egypt**, the asset management companies must notify the CMA of its decision for suspension after having it approved by the fund's board of directors and obtain the latter's approval. Similarly, in **India**, the approval of suspension made by the board of directors of the asset management company and trustees shall be informed to SEBI in advance.

Also, **Thailand, Malaysia, Hungary** and **South Africa** require immediate information. Take **Thailand** as an example, the management is required to report to the SEC Office at once of such decision and its operation plan on the fund.

In 5 EMC states, the notification occurs after the suspension. In **Romania**, the law requires notification by UCITS to CNVM and to the competent authorities of all member states in which it markets its units without delay. Similarly, **Slovenia** and **China** require notification without delay (within the same working day), and in **Dubai,** notification should be given at commencement of suspension. Moreover, in **Slovenia,** within 24 hours of the grounds for temporarily suspending the repurchase of units of the mutual fund arising, the management company must send the Agency a detailed report on the grounds for temporarily suspending the repurchase of fund units and on the measures it will take to eliminate them. Notably, in **Poland**, the notification of suspension of redemptions shall by notified by a fund in accordance with the regulation on the scope of periodic reports and current information regarding activities and financial situation of management companies and investment funds.

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[6] Panama stated that it defines specific requirements concerning the notification of the suspension to the authority, but did not give detailed information. Nigeria puts "N/A" in this question.

5 respondents (**Chile, Israel, Turkey, Korea, and Oman**) do not have specific requirements concerning the notification of the suspension to the authority. However, in **Korea** it is market norm for asset management companies to report to and consult with the authorities regarding suspension before it takes place until it ends. In addition, FSCMA requires asset management companies to submit reports and disclose information regarding the issue when needed. In **Chile**, suspension can only be initiated by the regulator. Similarly, in **Israel**, asset management companies may only request approval for suspensions by the ISA. Also, in **Turkey**, if there is any extraordinary situation, the asset management companies are responsible to inform the CMB and to ask for permission to handle the problem. If necessary, CMB might allow asset management companies to take required measures, including suspension.

23.) Is there a maximum authorised duration for suspensions? If so, what is it?

The majority of respondents have no maximum duration for the suspension (**Turkey, Panama, Pakistan, Oman, Nigeria, India, Korea, Egypt, Chile, Slovenia, and China**).

In contrast, **Thailand** has a maximum suspension period of 20 consecutive business days for suspension by the SEC Office, and 1 business day for suspension by management company, unless a waiver is obtained from the SEC Office. **South Africa** reported a maximum suspension period of 20 days, but asset management companies could extend it with the consent of the relevant investor. In **Malaysia,** the maximum suspension period is 21 days. In **Romania**, depending on the case, the maximum suspension period varies between 2 working days (transfer UCITS assets transferred to another depository) and 90 days (open-ended funds mergers). The suspension period may be extended after the term initially established has expired if the reasons for suspension still persist. For **Poland**, the maximum suspension period is 2 months with the consent of the PFSA and 2 weeks without. **Israel** reported the ISA may approve an initial suspension period of 3 or 7 business days, which could be extended up to a maximum of 60 days. **Hungary** sets the maximum suspension period at 180 days. In **Dubai**, the maximum suspension period is 28 days, unless DFSA agrees to an extension.

31.) Are investors involved in the process once the suspension begins? Do they have a right to participate in future decisions of the fund management with respect to a possible liquidation of the CIS? Are investors given the opportunity to decide, in the event of the suspension of the redemptions, upon the replacement of the manager, the reopening of the CIS for redemptions, the redemptions of their shares in securities instead of cash, the splitting of the CIS between one that carries the liquid assets and remains open for redemptions and another that carries illiquid assets and in which redemptions are suspended (i.e., the side-pockets mechanism),and the liquidation of the CIS? Or is there the possibility for investors to implement any other measure to manage the CIS illiquid condition? Should any of these possibilities be previously submitted to the regulator?

Most respondents have not reported any general rules for involving the investor in the process once the suspension begins (**Turkey, Slovenia, Poland, China, Chile, Panama, Pakistan, Oman, Romania, India, and Egypt**).

In **Malaysia**, upon suspension the trustee should immediately call for an investor meeting, during which the investors could pass a resolution to terminate or wind up the fund. **Thailand** reported that although provisions related to redemption suspension do not specifically address the involvement of investors, investors generally have the right to vote on the replacement of Management Company and fund dissolution. In **Nigeria**, investors have the right to vote at a meeting where a resolution to liquidate the fund is proposed. For **Israel**, investors have the right to petition the courts to put the fund into liquidation. **Hungary** reported that while investors are not involved in the decision making process post suspension, they have the formal right to ask the Hungarian Financial Supervisory Authority to cease the suspension of redemption. In **South Africa**, once the suspension begins investors have the option to withdraw the offer to repurchase or to accept assets as compensation; they are also given the opportunity to vote on liquidation of the fund. **Dubai** reported that upon suspension, investors have the right to vote on a resolution to liquidate the fund, and the investors' approval is also needed for the replacement of the manager. **Korea** reported the asset management company should convene an investor's meeting within six weeks from the day of suspension to decide on future decisions related to redemption and liquidation.

36.) Are CIS/asset management companies required to take specific actions at the end of the maximum suspension period (if any) /within a given timeframe (if any)? Is there a duty to liquidate a suspended CIS after a certain point? What actions would be allowed: for example full/partial liquidation? Others? Please describe.

Most jurisdictions reported that no requirement to liquidate a suspended fund after a given period. Many jurisdictions stated it is the responsibility of the management company to ensure that continuing suspension is in the best interest of the unit holders.

38.) What would be the scope of intervention of the competent authority at the end of the suspension period? Would actions taken by the CIS/management companies be subject to prior approval by the competent authority (suspension of redemption, termination of such suspension, liquidation, etc)?

In most countries the decision to end suspension is not subject to prior approval, however many require a notification to the authority which reserves the right for any measure.

Regarding possible interventions or measures, respondents deal with this issue on a case-by-case basis. In **South Africa, Nigeria, Dubai** and **Pakistan**, liquidation of the fund is subject to prior approval by the competent authority. In **Pakistan**, asset management company is also obligated to inform regulators the process and rationale for both the suspension of redemption and the termination of such suspension.

Panama reported the scope of intervention of the regulator is to liquidate and dissolve the CIS based on the CIS' request. In **Hungary**, when the length of suspension reaches 180 days, the competent authority shall order the dissolution of the investment fund by way of a resolution. In **Korea**, the asset management companies do not have an obligation to gain prior approval from the supervisory authority for the termination of suspension, but they are expected to seek and follow the authority's advice throughout the entire suspension process.

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