ICSA
INTERNATIONAL COUNCIL of SECURITIES ASSOCIATIONS

July 21, 2009

Mr Greg Tanzer
Secretary General
IOSCO
C/Oquendo 12
28006 Madrid
Spain

Re: Public Comment on the Impact on and Responses of Emerging Markets to the Financial Crisis

Dear Greg,

The International Council of Securities Associations (ICSA)[1] welcomes the opportunity to provide comments on IOSCO's Emerging Markets Committee's *Consultation Report on the Impact on and Responses of Emerging Markets to the Financial Crisis* (hereafter referred to as the Report). First, we would like to thank the members of IOSCO's Emerging Markets Committee's Chairman's Task Force on the Current Financial Crisis for the work that they have done to produce the Report. The Report provides invaluable insights regarding the effects of the recent financial crisis on emerging market economies and the policy measures taken in those jurisdictions in response to the crisis.

We note from the outset that ICSA members strongly support the recommendations contained in the Report. Our comments on some of the individual recommendations contained in the Report are listed below. While we support the individual recommendations in the Report, we emphasize the importance of developing a coherent financial sector regulatory framework which integrates investor protection, market integrity, prudential supervision and the oversight of systemic risk. The Report, while providing analysis of these individual areas, does not address the larger issue. We are not suggesting that financial sector regulation should necessarily be vested in one government authority. However, we suggest that the regulation and supervision of financial

[1] ICSA is composed of trade associations and self-regulatory organizations that collectively represent and/or regulate the vast majority of the world's financial services firms on both a national and international basis. ICSA's objectives are: (1) to encourage the sound growth of the international securities markets by promoting harmonisation in the procedures and regulation of those markets; and (2) to promote mutual understanding and the exchange of information among ICSA members. More information about ICSA is available at: www.icsa.bz

markets, institutions and products in all jurisdictions should be under an overall system-wide framework that allows for coordination and effective cooperation between responsible authorities which are subject to coherent policy oversight by the relevant government. We think this is an extremely important issue which might be addressed in the final version of the Report.

Regarding the individual recommendations, ICSA members strongly agree with the recommendation that regulators in emerging market economies emphasize the implementation of appropriate procedures to effectively monitor sources of systemic vulnerability and manage systemic threats before they intensify. As noted in the Report, the ability of regulators to monitor and manage sources of systemic risk can be enhanced through the development of mutual recognition arrangements between countries that are in comparable stages of development or where regulatory equivalence has been determined or by establishing regional cooperation frameworks. Such arrangements add stability to the international financial system by allowing regulators in individual jurisdictions to have a greater understanding of developments elsewhere. We believe that such arrangements also contribute toward greater regulatory convergence, strengthening the international capital market. ICSA members have been concerned for some time that the increasingly integrated global capital market could not be adequately regulated through regulations addressed exclusively toward national capital markets. Mutual recognition, other forms of regulatory recognition, standardization of regulations and regional cooperation arrangements can serve as practical ways to increase convergence between national regulators and we are encouraged that the Report acknowledges the role they can play. We are also encouraged by the very important work that IOSCO has done in this area.

ICSA members also strongly agree with the recommendation in the Report that the regulatory and supervisory capacity of authorities in emerging market economies should be enhanced and that regulators should review their approach to regulation. As is noted in the Report, the financial crisis represents an opportunity for regulators to, "…revisit the design, structure and approach to regulating and developing their financial systems." As part of that review, we would suggest that regulators in emerging market economies should also examine the actual and potential role of self-regulatory organizations (SROs) in their financial markets. SROs take different forms in different jurisdictions, reflecting national preferences and cultures. Regardless of those different forms, SROs make an important contribution to the regulatory systems where they exist, and measures to enhance the capacities of SROs would contribute to more effective regulation of capital markets as a whole.

ICSA members also strongly support the recommendation in the Report that emerging market authorities should be included in all aspects of international policy development, "from standard setting to global supervisory activities". In this respect, we are encouraged by the recent actions taken by the Financial Stability Board and IOSCO's Technical Committee to broaden their membership by including a number of advanced emerging market economies. We think these changes are important precisely because, as noted in the Report, these economies have become an integral part of the global financial system.

ICSA members also agree with the need to ensure proper sequencing between market development and capital account liberalization. We are well aware of the extensive literature that has developed over the past two decades regarding the need for appropriate sequencing of capital market liberalization in emerging market economies, specifically in those economies where the legal infrastructure is not sufficiently developed and/or financial sector regulatory and supervisory standards are inadequate. However, we are concerned that not all readers of the Report will be aware of that literature and, as a result, this specific recommendation could be misinterpreted as supporting protectionist measures. Accordingly, we suggest that the recommendation could be rephrased or amplified in order to eliminate potential misinterpretations and to make clear the regulatory measures should not be used to delay liberalization or be set forth in a manner which discriminates against foreign firms.[2]

We also strongly support the recommendation in the Report regarding the need for improved prudential regulation and supervision. As is emphasized in the Report, one of the major changes brought about by the financial crisis has been a greater regulatory focus on factors affecting the stability of the entire financial system, in contrast with the traditional focus on individual financial institutions. However, even as greater emphasis is placed on macro-prudential issues, there is a continued need to enhance prudential regulation and supervision, as enhanced prudential regulation and supervision could limit certain kinds of risk taking and help guard against systemic failures and international contagion.

Finally, ICSA members strongly support the recommendation that regulators in emerging market economies work closely with the industry on corporate governance and risk management issues. However, we note that this cooperation should not be limited to only those two areas. As the Report states, "… it is unreasonable to expect supervisors to work alone in dealing with the underlying crisis." Since there are many areas identified as sources of the crisis, it would be prudent to extend the range of cooperation to cover a wider range of issues. We suggest that this cooperation should also include issues that are not related to the financial crisis. ICSA members firmly believe that a collaborative and open consultative relationship between regulators and industry bodies will greatly facilitate the development of regulatory standards that enhance market efficiency and economic growth while also contributing to the stable development of financial markets. ICSA is ready to contribute to that process as a bridge between the industry and regulators.[3]

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[2] This is an important issue and it may be useful for the EMC to undertake research, either alone or in conjunction with the IMF or World Bank, regarding the relationship between capital account liberalization and the development of financial sector regulatory standards. It would be particularly interesting to investigate if the introduction of measures consistent with IOSCO's *Principles* were sufficient to allow more complete capital account liberalization.

[3] Many ICSA members are also members of IOSCO's SROCC and a number of these associations have designed and provided training programmes for other SROCC members. In this context, we would like to emphasize that

As a final note, one of the key findings of the Report is that trading halts are one of the main market interventions used in emerging market economies and the Report recommends that this policy should be further explored. We agree on the need to further explore the issue and we suggest that such further consideration should take into account the following points: (a) investors are rarely well served by being 'locked in' to their positions, even in fast-moving markets; (b) demand for trading services will likely be met in less transparent ways if the transparent, public market is closed; (c) the availability of liquidity will almost always be adversely affected; and (d) a disruptive trading halt may exacerbate rather than tame market volatility. In addition, since trading halts are generally imposed abruptly, they may have systemic consequences as investors do not have the opportunity to manage their risks appropriately. If trading halts are to remain an important weapon in the regulatory armory, the policy for imposing them must be clearly articulated and the scope for discretion and abrupt changes limited. In that case, investors would have a clear understanding of circumstances under which trading would be halted and would, therefore, be better able to manage their risks. In this respect 'circuit breakers', which suspend exchange traded markets temporarily and automatically, may have a role to play.

In closing, we would like to reiterate our thanks to IOSCO for the opportunity to comment on this Consultation Report. We would be pleased discuss any of the issue contained in this letter and contribute to IOSCO's further studies in the areas suggested by the Report, such as trading halts, circuit breakers, regulation of OTC trades and the implementation of risk-based supervision models. Please do not hesitate to contact either Duncan Fairweather (dfairweather@afma.com.au) and/or Marilyn Skiles (mskiles@sifma.org).

Best regards,

Jonathan Taylor

Duncan Fairweather.

Jonathan Taylor, Chairman
ICSA

Duncan Fairweather, Chairman
ICSA Standing Committee on Regulatory Affairs

ICSA members could contribute to the design and development of training programmes for regulators from emerging market economies, within their expertise.