

Panel 4: Implications of the Evolving Global Regulatory Framework

Introduction by Fernando Yanez, CEO, DCV Chile

- The recent financial crisis (or crises in the plural) continues to focus attention on the need for global regulatory reform. The growing global financial markets and the international firms that engage in them are governed by different regulators without the cross-border cooperation needed to assist the regulators in their supervisory role. While various regulatory reforms are being debated around the world, at this point global coordination continues to be lacking.

- The uncertain landscape of future regulations is relevant to those of us here today:
 - * What impact will these reforms have on CSDs? And
 - * What impact can CSDs have on the debate?

Larry Thompson, General Counsel, The Depository Trust & Clearing Corporation

- The Institute of International Finance's Market Monitoring Group recently released a statement concerning risks arising from the current high level of uncertainty in both regulatory and fiscal policy. The IIF noted challenges both near-term, as in the case of Greece, and medium-term are resulting in unsettled markets and could undermine global recovery.
- A new advisory body on global regulatory issues, the Council on Global Financial Regulation co-chaired by Michel Prada from the French markets regulator and Hal Scott director of Harvard's Program on International Financial Systems, was recently formed to provide recommendations on regulations with cross-border implications.
- The Financial Stability Board (formerly the Financial Stability Forum) continues to encourage better coordinated international financial regulatory systems, working together with IOSCO and other international organizations. The FSB and IOSCO are working to restore confidence to the securitization markets and, together with CPSS, to provide guidance to the OTC derivatives market related to trade repositories and central counterparty operations.

- At the same time, we have seen regulators in various markets beginning to take their own steps domestically. Priorities differ among jurisdictions as to what needs to be addressed first and the slow pace of international action may be spurring attention at a more national level. But, unilateral changes in market regulation introduces the risk of regulatory arbitrage as well as potentially inhibiting cross-border capital flows. In addition, an overload of regulatory initiatives on a particular market sector could stifle growth.
- Coordination on key issues such as dealing with OTC derivatives, standardization of disclosure rules and possibly capital rules could run parallel with initiatives on a more regional level. Or, regulations may be instituted on a phased-in approach to minimize market disruption.
- The issues and the variety of possible solutions present serious challenges.
- In a few minutes, Robert Peterson will discuss recent initiatives involving global supervisory cooperation and potential impacts on clearing and settlement. These initiatives, along with efforts such as the Geneva Convention on Securities (Unidroit) could improve the legal framework for securities and bring efficiency to the markets.
- The next panel, on Issues for Market Infrastructures Managing Risk , will highlight some universal principals emerging from discussions on regulatory oversight--including identifying and reducing systemic risk, eliminating gaps and overlaps in regulatory

structure and fostering international cooperation. Key points to consider with respect to systemic risk include:

- * Who the “systemically important” firms are
 - * Who the regulator should be
 - * What the regulator’s scope should be
 - * The capital and risk management standards that should be applied to such firms and
 - * How regulatory requirements can be standardized cross border
- A CSD certainly plays a systemically important role in global markets and is potentially both subject to international and local regulatory reforms itself and affected by regulations imposed on its customers. Issues such as:
 - * mutual recognition among regulators;
 - * uniformity (or lack of uniformity globally) with respect to clearing and settlement regulations; and
 - * cooperation among CSDs, as well as regulators, on topics such as ceasing to act and dealing with the close-out of a failing member who itself is a global player, all impact CSDs.
 - In providing infrastructure, CSDs are uniquely positioned to assist their customers to meet future regulatory demands by providing transparency into positions and transactions needed by regulators to enable systemic risk regulation. There is a real opportunity here

for CSDs to partner with their customers to meet customers' regulatory needs and the demands of a Systemic Risk Regulator.

- CSDs can provide the tools and data necessary to identify patterns and problems in the markets as they develop. CSDs provide a reliable, comprehensive picture of exposure within an asset class on a market participant level, thereby providing the data needed to identify firm risk that could lead to systemic risk.
- As regulators seek timely access to financial transactions in order to identify triggers of real time risk exposure, they will need consistent comparable financial data. That level of consistency does not exist today. Efforts to meet standardization of instrument identifiers, consistent valuation methodology within asset classes and continued progress in automation all have potentially profound effects on CSDs.
- The challenge to CSDs will be anticipate the direction of regulatory reform on an international as well as regional level both for its affect on CSDs and their customers and to identify the role CSDs can and should play in the global systemic risk environment.

Questions for Discussion

- Mutual recognition among regulators was mentioned in the remarks. Is that still a topic of discussion? And, if so, when do you think that will occur?
- How do you think systemic risk would be viewed within a domestic market and even within a CSD?

- Do you think there should be an initiative among the CSDs through a group such as ACSDA to forge links among CSDs, or should CSDs wait for global direction? If the CSDs work together, what items should be first on the agenda?
- How close do you think CSDs are today to uniformity with respect to the data they hold or do you anticipate there is likely to be a need for changes at the CSD level in order for regulators to have what they need when looking at a global institution or a particular asset class globally?
- What about other regulatory trends, for example short sale reporting or restrictions? What challenges or opportunities do you see for CSDs?