Testimony Concerning Continuing Oversight on International Cooperation to Modernize Financial Regulation

by Commissioner Kathleen L. Casey
U.S. Securities and Exchange Commission

Before the United States Senate Banking Subcommittee on Security and International Trade and Finance

July 20, 2010

Chairman Bayh, Ranking Member Corker, and distinguished members of the Subcommittee, thank you for inviting me to testify about international cooperation to modernize financial regulation.

International cooperation: from policy to principle to standard

I am pleased to have the opportunity to testify before you on behalf of the Securities and Exchange Commission on this very important topic. As I stated in my testimony before the Subcommittee last September, international cooperation is critical for the effectiveness of financial regulatory reform.[1] At that time, I described the existing mechanisms for international cooperation in securities market regulation and key securities regulatory reform issues being pursued through such mechanisms. The various mechanisms I described in September all remain active and relevant today. I therefore would like to use this opportunity to comment on some of the entities and venues in which we cooperate, and update the Subcommittee on progress in certain key areas.

At the same time that Congress has been considering the scope and specifics of regulatory reform in the United States, discussions have been taking place in the G20, the Financial Stability Board (FSB), International Organization of Securities Commissions (IOSCO), and other forums as to the nature of regulatory reforms that might be desirable in the wake of the crisis and how best to coordinate such regulatory responses internationally. Effective international coordination begins with a coherent articulation of and commitment to policies designed to address the weaknesses identified in the crisis. Those policies, in turn, must be reflected in sound principles developed to guide national regulatory authorities' regulation, such that national authorities can move forward in a coordinated fashion to consider and implement those principles in their own standards and regulations.

Articulating international policy

The G20 has proven helpful in forging a broad consensus about what major issues should be addressed by the individual G20 members in seeking to avoid and to mitigate at least some of the risks the global financial system may continue to face.

[1] See http://www.sec.gov/news/testimony/2009/ts093009klc.htm

In addressing such broadly identified risks, not all jurisdictions will follow the same or even similar approaches. While the G20 is an excellent vehicle for discussion of the highest-level policy objectives for financial regulation, regulatory objectives are just that – objectives. Different jurisdictions are likely to use different approaches in pursuit of those objectives, depending on their own legal and market structures. In this respect, I would note that the relevant provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act are broadly consistent with the international principles articulated in the key areas of hedge funds, OTC derivatives and credit rating agencies, and provide the Commission with the requisite authorities to craft regulations consistent with these principles.

In addition, because not all jurisdictions are members of the G20, and even in those jurisdictions that are, not all important actors are represented – legislatures, for example -- national deviations from the G20 consensus are possible. On issues relating to regulatory arbitrage or market competitiveness, it is unlikely, however, that a significant divergence from the G20 consensus would go unnoticed.

At the G20 Summit in Toronto, the Leaders pledged to act together to achieve the commitments to reform the financial sector made at the Washington, London and Pittsburgh Summits. This reform agenda rests on four pillars, consisting of a strong regulatory framework, effective supervision, resolution of financial institutions in crisis and addressing systemic institutions, and transparent international assessment and peer review. The G20 has tasked the FSB and other organizations with certain responsibilities in these areas, supported their ongoing work, and set forth timelines for completion of some of this work.

Currently, I represent the Commission in the FSB alongside the other U.S. Government participants, including the Federal Reserve Board and the Department of the Treasury. Although the SEC is a independent federal agency, the Commission places a high priority on coordinating the U.S. position with its fellow agencies and presenting a strong and unified position in policy discussions at the FSB level. This has been highly effective and is accomplished through extensive and informal communication between the staffs of our agencies as well as the Office of the Comptroller of the Currency, the Commodity Futures Trading Commission, and the Federal Reserve Bank of New York.

The Commission continues to support the efforts of the FSB, which includes officials from across the spectrum of financial regulation. It is useful as a discussion forum to review broad trends affecting the financial systems. Through FSB discussions, some gaps in regulation can be more readily identified and remedial action prioritized. The G20's focus on these results also is helpful in ensuring that the pace of reform is maintained and that a clear and coherent international framework emerges.

While the FSB is useful in discussing and coordinating these efforts, the real work associated with building international regulatory-level consensus and coordination rests with international technical bodies such as IOSCO. The members of these organizations have both the expertise and regulatory authority to establish a coordinated approach to common regulatory problems. For these reasons, we cannot underestimate the importance of efforts at

the level of international bodies like IOSCO, where policies, including many of those agreed to by the G20 and the FSB, can be forged into principles to guide securities regulation.

IOSCO

As a securities regulator, the SEC has long been active in IOSCO as member of the Technical Committee and Executive Committee. As mentioned, I recently completed a two-year term begun by former SEC Chairman Chris Cox as Chair of the Technical Committee. During this period, IOSCO has taken important steps in advancing approaches to regulation in the areas of credit rating agencies (CRAs), hedge funds, over-the-counter derivatives, securitization and short selling. IOSCO recently agreed to reorganize its internal structure as part of an ongoing strategic review, as well as to strengthen the organization's role in forging an international consensus on issues where the potential for regulatory arbitrage or conflicts are real concerns.[2]

IOSCO is the leading forum for securities regulators to discuss regulatory issues and concerns and to move these issues from broader agreement on policy to an articulation of particular principles that should guide regulation across global capital markets. The crisis has highlighted the need for enhanced cooperation in international regulation, and IOSCO has continued to focus on raising standards for international cooperation and coordination among securities regulators. This past year's focus on cooperation relates to enforcement as well as in supervisory oversight of market participants whose operations cross borders in the globalized market place.

Principles of Securities Regulation

The IOSCO *Objectives and Principles of Securities Regulation* (IOSCO Principles) have, since their adoption by the organization in 1998, served as the key international benchmark for the regulation of securities markets. They are recognized by the international community as one of "Twelve Key Standards" for a sound financial system.[3]

In the wake of the recent financial crisis, IOSCO's Executive Committee charged its Implementation Task Force to revise the IOSCO Principles to take into account the emerging consensus regarding regulatory concerns raised by the recent crisis. At the annual meeting last month in Montreal, the Presidents' Committee approved revised IOSCO Principles, which include eight new principles as well as a number of revisions to existing principles.

---

[2] During its 35th Annual Conference, held in June this year, IOSCO reformulated its strategic mission and goals for the next five years, in order to take into account IOSCO's increased role in: maintaining and improving the international regulatory framework for securities markets by setting international standards; identifying and addressing systemic risks; and advancing implementation of the IOSCO Principles

[3] The objective of the IOSCO Principles is to encourage jurisdictions to improve the quality of their securities regulation. They are used not just by developing markets interested in creating a regulatory structure for an emerging financial market, but also by the World Bank, the International Monetary Fund, and other international financial institutions in conducting their financial sector assessment programs and similar regulatory assessment exercises.

The new principles address concerns regarding systemic risk in markets, recognizing the vital importance of this concept, and emphasize the need to review the perimeter of regulation to address other market practices highlighted during the global financial crisis.

Enforcement Cooperation

In May 2002, IOSCO developed the Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (MMoU), a non-binding multilateral enforcement information-sharing and cooperation arrangement that describes the terms under which any signatory can request information or cooperation from any other signatory as part of an investigation of violations of securities laws or regulations in the requestor's jurisdiction. The MMoU serves as an international benchmark for securities regulators interested in acquiring the powers necessary to cooperate fully in the fight against securities fraud and financial crime. The MMoU has also greatly expanded the number of securities regulators who have the ability to gather information and share information with the SEC for enforcement investigations and proceedings.

IOSCO completed a milestone this past January when 96 percent of the eligible membership of 115 securities regulatory authorities met the requirements needed to become signatories to the MMoU, or have made the necessary commitment to seeking national legislative changes to allow them to do so in the near future. This represents a virtually complete commitment on the part of the international regulatory community to meet the minimum standards expected of regulators with respect to cooperation in the enforcement of securities laws. In order to pursue full implementation of the IOSCO MMoU, the IOSCO President's Committee passed a new resolution in June of this year requiring all IOSCO members with primary responsibility for securities regulation in their jurisdictions to become full (Appendix A) signatories by January 1, 2013.

Supervisory Cooperation

Recognizing the increasing need to collaborate in the oversight of firms and markets that are increasingly global, the Technical Committee, in June 2009, established a new Task Force on Supervisory Cooperation. This Task Force, led by the SEC and the French Autorité des marchés financiers, was tasked to develop principles on cooperation in the supervision of markets and market participants whose operations cross international borders. This effort is particularly relevant to IOSCO's ongoing work related to broker-dealers and exchanges as well as hedge funds, credit ratings agencies and other elements of the securities markets infrastructure. In May 2010, IOSCO published *Principles Regarding Cross-Border Supervisory Cooperation*, which included a report and sample Supervisory Memorandum of Understanding to assist securities regulators in building and maintaining cross-border cooperative relationships with one another.

Hedge Funds

In June 2009, IOSCO's Technical Committee published a report, "Hedge Funds Oversight," which sets out six high-level principles for regulation of the hedge fund sector.[4] A task force under the direction of the Technical Committee has since expanded its efforts to provide a coordinated basis for hedge fund oversight by developing a common template to help regulators identify the types of information that could be gathered to assess possible systemic risk arising from the hedge fund sector. This template contains a list of broad proposed categories of information (with examples of potential data points) that regulators could collect for general supervisory purposes and potentially to help in the assessment of systemic risk (including, for example, product exposure and asset class concentration, geographic exposure, liquidity information, extent of borrowing, credit counterparty exposure, risk issues).

Short Selling.

In the last few years, many jurisdictions, including the U.S. and EU member states, have been considering the implementation of regulatory controls to govern the short selling practices of market participants.[5] The SEC participates in the IOSCO Short Selling Task

---

[4] The Final Report is available at: http://www.iosco.org/library/pubdocs/pdf/IOSCOPD293.pdf.

[5] For example, the SEC has adopted several rules and regulations relating to the short selling of securities by regulated entities. On June 23, 2004, the Commission adopted Regulation SHO, which was designed primarily to address concerns regarding potentially abusive "naked" short selling and persistent fails to deliver securities. As adopted, Regulation SHO included a close-out requirement that required broker-dealers to purchase securities to close out fail to deliver positions in certain securities with large and persistent fails to deliver. The Commission subsequently amended the close-out requirement in the fall of 2008 such that fails to deliver in all equity securities must be closed out immediately after they occur. This amendment, among other actions taken by the Commission, has significantly reduced the number of fails to deliver securities. In addition, the Commission also adopted a "naked" short selling anti-fraud rule in October 2009 which, among other things, makes it unlawful for individuals to submit an order to sell an equity security if they deceive others about their intention or ability to deliver the security, and such person fails to deliver the security on or before the settlement date. In February 2010, the SEC adopted an alternative uptick rule (Rule 201) which imposes restrictions on short selling if a security has triggered a circuit breaker by experiencing a price decline of at least 10 percent in one day. At that point, short selling would be permitted if the price of the security is above the current national best bid. The implementation date for this short sale price test is November 10, 2010.

With respect to the European Union, on June 14, 2010, the European Commission published a consultation paper on short selling addressing the scope of securities covered under a short selling regime, increased transparency of short positions, restrictions on "naked" short selling and credit default swap transactions, possible short selling exemptions and emergency powers relating to short selling. A formal European Commission proposal is scheduled for adoption in September 2010. In addition, on March 2, 2010, the Committee of European Securities Regulators (CESR) submitted a proposal to the European Institutions recommending the introduction of a pan-European two-tier disclosure regime for net short positions. Further, in October 2009, the United Kingdom's Financial Services Authority (FSA) published a feedback report detailing the responses it received on a February 2009 discussion paper regarding short position disclosure. In the report, which made no changes to its current short position disclosure regime that has been in effect since 2008, the FSA advocated for the adoption of the CESR proposed disclosure regime and indicated it is awaiting the outcome of the CESR proposal before amending the current FSA short position disclosure policies.

Force formed during the depths of the financial crisis to effect coordination among member states with respect to short selling regulations. Pursuant to its mandate, the task force developed four principles for the effective regulation of short selling[6] and aims to identify opportunities for greater convergence in the implementation of, and assessment of the effectiveness of, these principles. As IOSCO member jurisdictions are still in the process of implementing and/or conducting consultations with respect to new short selling measures, including transparency measures,[7] the task force chair is organizing a workshop for members to continue monitoring developments in short selling regulation through an exchange of experiences, allowing members to better understand each other's short selling regulations and policies.

Examples of the layers of international coordination

Credit rating agencies and over-the-counter (OTC) derivatives provide illustrative examples of the interaction of the various levels of cooperation – involving the G20, FSB, IOSCO, and national and regional authorities.

OTC derivatives

In March 2010, IOSCO, the Committee on Payment and Settlement Systems (CPSS) and the European Commission formed a working group to analyze and suggest policy options to further the objectives agreed upon at the September 2009 G20 Leaders' Summit in Pittsburgh to improve the OTC derivatives markets.[8]

Separately, IOSCO and CPSS issued in May 2010 two consultative reports containing proposals aimed at strengthening the OTC derivatives market.[9] One report presents guidance

---

[6] These principles state that (1) short selling should be subject to appropriate controls to reduce or minimize the potential risks that could affect the orderly and efficient functioning and stability of financial markets; (2) short selling should be subject to a reporting regime that provides timely information to the market or to market authorities; (3) short selling should be subject to an effective compliance and enforcement system; and (4) short selling should allow appropriate exceptions for certain types of transactions for efficient market functioning and development.

[7] The Commission has also worked with several Self Regulatory Organizations ("SROs") to improve public disclosure regarding short sales. Specifically, the SROs have made the following short sale information publicly available to all investors: the aggregate short selling volume in each individual equity security for that day; and, information regarding individual short sale transactions (without identifying the parties to the transaction) in exchange-listed equity securities. In addition, the Commission increased the frequency of its publication of data regarding fails to deliver for all equity securities.

[8] The Pittsburgh Leaders' Statement states, "All standardized OTC derivative contracts should be traded on exchanges or electronic trading platforms, where appropriate, and cleared through central counterparties by end-2012 at the latest. OTC derivative contracts should be reported to trade repositories. Non-centrally cleared contracts should be subject to higher capital requirements. We ask the FSB and its relevant members to assess regularly implementation and whether it is sufficient to improve transparency in the derivatives markets, mitigate systemic risk, and protect against market abuse."

[9] See http://www.iosco.org/news/pdf/IOSCONEWS182.pdf.

for central counterparties that clear OTC derivatives products, and the other presents a set of considerations for trade repositories in OTC derivatives markets and for relevant authorities over trade repositories. These are examples of how experts from IOSCO, the Basel-based committees, and national authorities are collaborating to ensure a coordinated approach as regulatory reforms in our respective jurisdictions evolve, in a manner responsive to the objectives laid out in policies developed by the G20.[10]

Credit rating agencies

At the London Summit, G20 Leaders agreed that regulatory oversight regimes of credit rating agencies (CRAs) should be established by the end of 2009. The G20 Leaders took as a starting point the IOSCO CRA *Code of Conduct Fundamentals* (Code Fundamentals) first adopted in 2004. Following this commitment, national and regional initiatives have been taken or are underway to strengthen oversight of CRAs. In the U.S., the SEC has adopted or proposed amendments to its rules on nationally recognized statistical rating organizations (NRSROs) in order to foster accountability, transparency, and competition in the credit rating industry as well as to address conflicts of interest at NRSROs, including through enhancements to their disclosure requirements. The recent regulatory reform legislation also seeks to further strengthen oversight, ensure greater transparency and address conflicts of interest at NRSROs.

Many other G20 countries have also introduced or are on the way to introducing new regulatory oversight framework for CRAs. In the European Union regulation introducing oversight and supervision of CRAs entered into force in December 2009; and the Committee of European Securities Regulators (CESR) issued guidance in June 2010 on various topics including the registration process and supervisory practices for CRAs. In Japan, the final version of a cabinet order and cabinet office ordinances were published in December 2009, following the June 2009 law that introduced a new regulatory framework for CRAs. The new regulations became effective in April 2010.

While these national developments build on the IOSCO Code Fundamentals, attention is needed to ensure international coordination. The SEC, Financial Services Agency of Japan and CESR-members have been engaged in ongoing discussions to address issues relating to cross-border transferability of credit ratings and any other significant inconsistencies or frictions that may arise as a result of differences among their new CRA regulations.

These discussions have been facilitated by the work of Standing Committee 6 of IOSCO’s Technical Committee (which is chaired by SEC staff). In May 2010, IOSCO issued for public consultation a report reviewing CRA supervisory initiatives in several of its member jurisdictions in order to evaluate whether, and if so how, these regulatory programs

---

[10] From the US, representatives of the Commission, the Federal Reserve System and the Commodities Futures Trading Commission participate on the working group.

implement the four principles set forth in the 2003 IOSCO paper *Statement of Principles Regarding the Activities of Credit Rating Agencies*.

In response to the FSB and G20 recommendations to review the use of ratings in the regulatory and supervisory framework, steps are being taken to reduce official sector use of ratings. The Basel Committee, for instance, is working to address a number of inappropriate incentives arising from the use of external ratings in the regulatory capital framework. National and regional authorities, including the SEC, have also taken steps to lessen undue reliance on ratings in rules and regulations or are considering ways to do so. As guidance to assist this work, the FSB has collected information on the measures taken both at international and national levels, and is discussing the development of high-level principles for use by authorities in reducing their reliance on ratings.

Bilateral cooperative arrangements

In addition to our collaborative efforts with our counterparts in IOSCO, the Commission is pushing ahead in developing much stronger and more extensive supervisory cooperation arrangements with a number of jurisdictions. These types of arrangements improve our abilities to share information at the operational level, to essentially "compare notes" with our counterparts abroad and share information about the entities we regulate. This combined emphasis – engagement with and strengthening of the international standard-setting bodies, and forging closer bilateral ties with our counterpart regulators overseas – is necessary for the high-level objectives of the G20 to be implemented in any meaningful fashion, and in ways that do not lead to regulatory arbitrage.

On June 14, 2010 the SEC, Quebec Autorité des marchés financiers (AMF) and Ontario Securities Commission (OSC) announced a comprehensive arrangement to facilitate their supervision of regulated entities that operate across the U.S.-Canadian border. The arrangement, in the form of a memorandum of understanding, provides a clear mechanism for consultation, cooperation, and exchange of information among the SEC, AMF and OSC in the context of supervision. The memorandum of understanding sets forth the terms and conditions for the sharing of information about regulated entities, such as broker-dealers and investment advisers, which operate in the U.S., Quebec and Ontario.

I anticipate that there will be additional arrangements of this sort in the future. Certain provisions of the Dodd-Frank bill will facilitate supervisory cooperation between U.S. authorities and our foreign counterparts by further enabling and protecting information sharing with foreign authorities.[11]

[11] Section 929K, *Sharing Privileged Information with Other Authorities,* indicates that the Commission shall not be deemed to have waived any privilege applicable to any information by transferring that information to, among others, any foreign securities authorities or foreign law enforcement authorities. This extra protection for shared information can be expected to strengthen the volume and types of information that the SEC can comfortably share with our foreign counterparts, for the benefit of investors. Section 981, *Authority to Share Certain Information with Foreign Authorities*, allows the Public Company Accounting Oversight Board (PCAOB) to share information with its foreign counterparts without the information losing its status as privileged and confidential in the hands of the Board. To receive information from the PCAOB, a foreign

Initiatives in Other Areas of International Interest

Ultimately, while bodies such as the G20 and FSB play an important role in the international policy dialogue, it is critical that regulatory bodies such as the Commission have control over their own agendas and the ultimate outcomes of their regulatory and standard-setting work consistent with their national authorities and mandates. Regulators and supervisors have specific goals for regulation – which may differ from sector to sector – but are all important. For example, a key goal of securities regulators is investor protection; this goal is not the focus of bank or insurance supervisors, who have other priorities. Only by allowing the primary regulators, where the technical expertise resides, to develop regulatory approaches in their areas of concern, can we ensure that all regulatory goals are being met. Moreover, implementation and enforcement depend on legal mechanisms and processes that vary jurisdiction by jurisdiction, and sector by sector.

I would like to briefly describe initiatives in two areas where regulators and standard setters must bear in mind the international repercussions of their work, but ultimately must make decisions that comply with the demands of their unique mandates.

Convergence in Accounting Standards

Continuing a policy established over three decades ago, the Commission unequivocally supports efforts of the Financial Accounting Standards Board (FASB) and the International Accounting Standards Board (IASB) (collectively, the Boards) to reduce disparities in financial reporting standards through their convergence agenda. The Boards formalized their efforts to remove differences in key areas of their respective accounting standards in a 2006 memorandum of understanding.

In the Leaders Statement issued at the September 2009 Summit in Pittsburgh, the G20 "call[ed] on our international accounting bodies to redouble their efforts to achieve a single set of high quality, global accounting standards within the context of their independent standard setting process, and complete their convergence project by June 2011." In the wake of the G20 Statement, the IASB and FASB have been working aggressively toward completion of their eight remaining joint projects.[12] To provide greater visibility into and accountability for their processes, in November 2009, the Boards issued a joint statement that set forth milestones for each remaining major convergence project. The Boards will issue quarterly reports on progress on those projects until they are completed. Two such quarterly reports have been issued to date.

---

counterpart will need to provide assurances of confidentiality, a description of its applicable information systems and controls and of its relevant laws and regulations. The PCAOB will have the discretion to determine the appropriateness of sharing. This information sharing will enhance the PCAOB's ability to effectively oversee firms that audit multi-national public companies.

[12] In addition, the Boards are collaborating on a number of other projects.

The Boards' most recent progress report, issued on June 24, provided the details behind a modified approach to its work plan, announced in general terms on June 2. The modification reflects a prioritization of the major projects in the memorandum of understanding to permit a sharper focus on the issues and projects for which the Boards believe the need for improvement in their respective standards is the most urgent. For these projects, the modified strategy retains the target completion date of June 2011 or earlier. Included among these is the financial instruments project, the importance of which was accentuated during the financial crisis.

Another revision to the project plan will result in phased publication of exposure drafts and related consultation on standards under development. Many stakeholders expressed concern that they may not be able to provide high quality input to each project, given the large number of major exposure drafts previously planned for publication in the second quarter of this year, in order to finalize standards by mid-2011. A more rationalized pace of proposed standards for comment is expected to increase the input provided to the Board, which in turn should contribute to the development of sustainable final standards.

The Boards' modified strategy has the full support of the Monitoring Board of capital market authorities, which oversees the IASB's trustee body. SEC Chairman Mary Schapiro issued a statement upon announcement of the modified plan, expressing support for the adjustment. Both Boards are obligated to develop high quality accounting standards that improve the transparency and usefulness of financial reporting in the interest of investors. At their most recent summit in Toronto last month, the G20 Leaders' statement urged the Boards to complete their convergence project by the end of 2011.

The Commission staff continues to develop its analysis of the appropriate role of the accounting standards set by the IASB, International Financial Reporting Standards (IFRS), in financial reporting for U.S. issuers, as directed by the Commission in a February 2010 Statement in Support of Convergence and Global Accounting Standards. The staff's work is designed to position the Commission in 2011 to make a determination regarding incorporating IFRS into the U.S. financial reporting system for U.S. issuers.

Equity Market Structure

Last year, the Commission began an in-depth evaluation of the U.S. equity market structure. The Commission embarked on this review to ensure that the U.S. equity markets remain fair, transparent and efficient in light of new technology and trading strategies. To date, the Commission has proposed several rules related to the equity market structure that would:

- Establish a consolidated audit trail system to help regulators keep pace with new technology and trading patterns in the markets.[13]

[13] SEC Release No. 34-62174 (May 26, 2010), available at http://www.sec.gov/rules/proposed/2010/34-62174.pdf.

- Generally require that information about an investor's interest in buying or selling a stock be made available to the public, instead of just to a select group operating with a dark pool.[14]

- Effectively prohibit broker-dealers from providing their customers with unfiltered access to exchanges and alternative trading systems and ensure that broker-dealers implement appropriate risk controls.[15]

- Create a large trader reporting system to enhance the Commission's ability to identify large market participants, collect information on their trades, and analyze their trading activity.[16]

Each of these proposals is currently pending before the Commission, and the Commission has received helpful comment from the public on these proposals.

In addition, to help generate thought and provide the Commission with insight on the current landscape of the U.S. equity markets, the Commission issued a concept release in January of this year.[17] The Commission followed on this Concept Release this past June by holding a Roundtable on Equity Market Structure.[18] The Concept Release covers three broad categories. First, it asks about the performance of the U.S. market structure in recent years, particularly from the standpoint of long-term investors. Second, it seeks comments on the strategies and tools used by high frequency traders, such as co-location services. Finally, it asks about dark liquidity in all of its forms, including dark pools, alternative trading systems (ATSs), over-the-counter market makers, and undisplayed order types on exchanges and ECNs.

While the Concept Release is focused on analyzing the changes of the U.S. equity market structure, the Commission did request comment on the impact of globalization on U.S. equity markets. Specifically, the Commission asked the following questions:

1. How does global competition for trading activity impact the U.S. market structure?
2. Should global competition affect the approach to regulation in the U.S.?

---

[14] SEC Release No 34-60997 (November 13, 2009), available at http://www.sec.gov/rules/proposed/2009/34-60997.pdf.

[15] SEC Release No 34-61379 (January 19, 2010), available at http://www.sec.gov/rules/proposed/2010/34-61379.pdf.

[16] SEC Release no 34-61908 (April 14, 2010), available at http://www.sec.gov/rules/proposed/2010/34-61908.pdf.

[17] *Concept Release on Equity Market Structure*, SEC Release No. 34-61358 (January 14, 2010), available at http://www.sec.gov/rules/concept/2010/34-61358.pdf .

[18] *See* the SEC Press Release announcing the agenda and panelists for the Market Structure Roundtable, available at http://www.sec.gov/news/press/2010/2010-92.htm .

3. Will trading activity and capital tend to move either to the U.S. or overseas in response to different regulation in the U.S.?
4. How should the Commission consider these globalization issues in its review of market structure?

The SEC is not alone in its interest in evaluating equity market structure. These topics are currently being evaluated in other jurisdictions. For example, the EU is currently in the process of reviewing the Market in Financial Instruments Directive (MiFID) in light of new technology.[19] In May of this year, the UK Financial Services Authority issued its regulatory agenda for the UK markets, which highlights many of the market structure issues that the Commission is considering, such as dark pools of liquidity and new trading platforms.[20] In addition, IOSCO is evaluating certain market structure issues, such as dark pools and direct market access.

Conclusion

Beyond the formal bilateral regulatory dialogues and international financial and regulatory bodies in which the Commission and its staff participate, we have a long-standing commitment to assist in the development and strengthening of capital markets globally. Securities commissions and stock exchanges are increasingly requesting the expertise and experience of SEC staff in dealing with insider trading, market manipulation, pyramid schemes, corporate governance, inspections and compliance, anti-money laundering, and a host of other market development and enforcement issues. Utilizing a faculty of senior SEC and industry officials, and seasoned practitioners, the technical assistance program has provided training to nearly 2000 regulatory and law enforcement officials from over 100 countries. Such technical assistance helps build good relationships with our regulatory counterparts abroad. We often need the assistance of our counterparts abroad in cross-border enforcement matters and, increasingly, in cross-border supervisory matters. Increasingly, we find that they are pursuing the same wrongdoers that we are, so sharing our best regulatory and enforcement practices redounds directly to our benefit.

Through its flagship International Institutes, bilateral dialogues, and regional training programs, we seek to improve market development and enforcement capacity around the world. This past April, we held our twentieth annual International Institute for Market Development. The International Enforcement Institute is held each fall. Earlier this month, the Commission hosted its second annual Institute on Inspection and Examination of Market Intermediaries.

---

[19] *See e.g.,* CESR Call for Evidence, *Micro-Structural issues in the European Equity Market,* CESR Ref No. 10-142 (April 1, 2010), available at http://www.cesr.eu/index.php?page=consultation_details&id=158. *See also, CESR Technical Advice to the European Commission in the context of the MiFID Review – Equity Markets,* CESR Ref No. 10-394 (April 2010), available at http://www.cesr.eu/index.php?page=consultation_details&id=16. In its call for evidence, CESR requested comment on issues related to high frequency trading; sponsored access; co-location services; fee structures; tick size regimes; and indications of interest.

[20] *See The FSA's markets regulatory agenda*, (May 2010), available at http://www.fsa.gov.uk/pubs/other/markets.pdf.

As is described above, the Commission is continuing its pursuit of efforts to improve securities market regulation in the wake of the financial crisis. Increasingly, our success will depend on international consensus on fundamental objectives of securities regulation – investor protection; the promotion of fair, efficient and transparent markets; and the reduction of systemic risk. As regulators, it is essential that we bear these principles in mind, as they will help us support the strength of our own capital markets. Our markets are made better not simply by international consensus on principles, but also on our implementation and enforcement at the national level of common objectives agreed upon at the international level.