

MEMO# 28825

March 13, 2015

Comment Letter - IOSCO Task Force on Cross-Border Regulation Consultation Report

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TO: INTERNATIONAL OPERATIONS ADVISORY COMMITTEE No. 5-15 RE: COMMENT LETTER - IOSCO TASK FORCE ON CROSS-BORDER REGULATION CONSULTATION REPORT

On February 23, 2015, ICI Global submitted comments on the IOSCO Task Force on Cross-Border Regulation Consultation Report (“the Report”). [\[1\]](#)

The Report provides an overview of the mechanisms used to access markets and suggestions for IOSCO’s role on cross-border issues. In the Report, the Task Force generally describes cross-border regulatory tools (“Cross-Border Tools”) as regulatory approaches that are used by a jurisdiction to regulate, oversee or address activities by a foreign entity that are affecting, or are being carried out in, the jurisdiction. The Report details Cross-Border Tools, such as national treatment, passporting and recognition, as well as the experiences of regulators and stakeholders with the tools.

Our letter offered the following comments:

- Despite challenges with the Cross-Border Tools, we stated that IOSCO’s work did facilitate the use of the Cross-Border Tools by encouraging coordination and regulatory convergence, where appropriate. We stated that IOSCO’s work helps regulators better understand other regulatory approaches and therefore the potential impacts and workability of the Cross-Border Tools. In addition, this work helps regulators be in a better position to identify and avoid, where possible, adverse cross-border impacts and conflicts.
- We recommended that IOSCO more proactively engage with securities regulators and other policymakers in a more forward looking manner. In this way, IOSCO can inform regulatory initiatives and encourage convergence, where appropriate. Such work also should help mitigate potential cross-border conflicts. As an example, we recommended that IOSCO lead in developing common reporting schemes. The ability to file substantially similar data globally would be a tangible benefit, reducing costs, complexity and helping supervisory cooperation and oversight.

- We also encouraged IOSCO to provide more guidance on how requirements apply in cross-border transactions. While difficult, we believe IOSCO as a group is better equipped to address such challenges rather than leaving it to national regulators which may develop individual approaches that may not work globally.
- Lastly, we urged securities regulators to engage with relevant tax authorities to understand how tax issues can adversely impact the usefulness of Cross-Border Tools. For example, a tax issue can prevent a foreign fund from effectively competing with a local fund regardless of whether there is access via recognition, a passport or national treatment.

Susan Olson
Chief Counsel

[Attachment](#)

endnotes

[1] IOSCO Task Force on Cross-Border Regulation, Consultation Report, CR09/2014, available at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD466.pdf>.

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