

SUCCESSFUL MODELS FOR IMPROVING CROSS BORDER COOPERATION

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Jonathan Bravo
Policy Advisor
IOSCO

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Disclaimer

*The views expressed are those of the presenter
and do not necessarily reflect IOSCO's views*

IOSCO - A brief introduction

- Recognized as the International Standard setter for Securities Regulation
- 100+ jurisdictions, more than 95% of world capital markets
- IOSCO's Principles are one of the 12 key standards and codes recognised by the Financial Stability Board (FSB) as key to sound financial systems
- IOSCO MMoU recognized as a benchmark for international cooperation and enforcement

IOSCO Objectives

to cooperate in developing, implementing and promoting adherence to internationally recognised and consistent standards of regulation, oversight and enforcement in order to

- protect investors,*
- maintain fair, efficient and transparent markets, and*
- seek to address systemic risks*

Global Financial Crisis

- Regulatory arbitrage
- Belief in self-regulating markets misplaced
- Interconnectedness of world markets
- Financial stability not necessarily maintained through monitoring individual institutions

Global Responses

- Global institutions created and others strengthened: G20, FSB, IMF
- Demand for global standard setters to improve risk management standards, increase capital requirements
- Greater emphasis on cooperation between regulators and supervisors at international and national levels

IOSCO's response to the crisis

- To strengthen the international enforcement and surveillance framework, through full implementation of the IOSCO MMoU and working with uncooperative and/or under regulated jurisdictions;
- Resolution on the MMoU, June 2010: all IOSCO members to apply to become signatories to the MMoU by 1 January 2013
- Principles regarding Cross-Border Supervisory Cooperation

The IOSCO Multilateral Memorandum of Understanding (MMoU): an international benchmark for securities enforcement

- Enhancing jurisdictions' ability and willingness to co-operate internationally;
- Enhancing compliance with and enforcement of securities laws and regulations;
- Enhancing the ability of securities regulators to detect and deter cross-border financial crime; and
- To reinforce to markets the message that regulators are cooperating in tackling cross-border securities misconduct.

Key commitments and guidelines in the IOSCO MMoU

1. legal ability to obtain information;
2. types of information it can compel;
3. legal ability to send information to foreign regulators;
4. how other signatories can use its information;
and
5. how it can preserve the information sent to it by other signatories.

How can the MMoU be effective if it is legally unenforceable?

1. Credibility
2. Screening Group
3. Monitoring Group
4. Reporting failures

Principles on Supervisory Cooperation

1. Framework for exchange of day-to-day oversight information outside an enforcement context.
2. Regulators to expand the notion of supervisory cooperation
3. Enhancing domestic oversight and not replacing or superceding domestic regulatory obligations.
4. Do not seek to promote any particular approach but more consistent implementation of the principles that will lead to converged approaches facilitating collaborative oversight

Targets

1. Regulated entities that operate in one jurisdiction but also have affiliates in other jurisdictions. Assistance needed from a foreign counterpart; and
2. Regulated entities that provide services in multiple jurisdictions and thus are subject to regulation by multiple regulators. Cooperation is necessary to avoid conflicting regulation and to limit duplicate efforts by regulators.

Obstacles to cooperation

1. Legal
2. Sense of relinquishing oversight responsibilities to another regulator.
3. Sense of losing control of the oversight of domestic market participants
4. Lack of resources

Types of Regulated Entities

1. Market intermediaries → Focus on protection of investors
2. Securities Exchanges and Markets → Focus on transparency and its impact on investor protection .
3. Clearing and settlement systems → Focus on reducing risks and contribute to financial stability.
4. Collective investment schemes → Focus on investor protection, transparency and reduction of systemic risks.
5. Informational intermediaries, including CRA's, Research analysts and auditors → Focus on independence, high quality, integrity and reduction of conflict on interests.

Type of Assessments

- Industry sector risks



Anticipate thematic issues

- Financial information on a sectoral basis



Assess relative positions and assess risk trends

- National and regional economic analysis



Assess vulnerabilities

Mechanisms for Supervisory Cooperation

1. Ad Hoc Cooperation
2. Memoranda of Understanding (MoU)
3. Supervisory Colleges
4. Networks of Regulators

Ad Hoc Cooperation

1. Front end/during the life of the entity
2. Oral Communications/Written exchange of letters
3. Bi-lateral/Multilateral information-sharing
4. Can range from specific oversight issues to wide-ranging discussions
5. Allows flexibility and real time supervision

MoU

1. Bedrock of any ongoing form of bilateral cooperation;
2. Sets forth intentions and articulates provisions for confidentiality;
3. Builds trust and allows for complete, clear and effective consultation; and
4. Provisions for on-site visits, permissible uses and users of information, advance notifications, safeguards.

Supervisory Colleges

1. Provide a framework for ongoing dialogue;
2. Multiple financial authorities with direct oversight with a view to obtain a complete risk picture of the institution;
3. Example: the OTC Derivative's Regulators Forum, includes several securities and banking regulators and the EU, CPSS and IOSCO.

Networks of Regulators

1. Extend cooperative relationship to engage in a more collaborative monitoring of global regulatory issues;
2. Permit regular, free-flowing sharing of relevant findings;
3. Provide an important high-level intelligence gathering aspect to a supervisory cooperation framework;
4. IOSCO itself would be a typical example of this type of network.

Thank you