

INTERNATIONAL COUNCIL OF SECURITIES ASSOCIATIONS

Communiqué of the 17th Annual General Meeting, 2004 Stockholm, Sweden

The International Council of Securities Associations (ICSA) met on May 9-11, 2004, in Stockholm, Sweden to discuss, initiate and endorse actions affecting members' respective capital markets and securities industries, with the objective of aiding and encouraging the sound growth of the international securities market by: (1) promoting and encouraging harmonization and, where appropriate, mutual recognition in the procedures and effective regulation of that market; and (2) promoting mutual understanding and the exchange of information among ICSA members. ICSA is composed of sixteen members who represent and/or regulate the securities industry in twelve jurisdictions as well as globally. The markets represented by ICSA members collectively account for the overwhelming majority of the world's equity, bond and derivatives markets.

ICSA members reviewed and supported Canada's proposed Uniform Securities Transfer Act (USTA). Delegates understand that the new legislation would strengthen Canada's capital market and facilitate the flow of cross-border capital by providing a modern legal foundation for Canada's securities settlement system. ICSA members agreed to communicate their support for the proposed USTA to the appropriate Canadian governments.

ICSA delegates commended the work being done by the ICSA Working Group on Investor Education, including the establishment of the International Alliance for Investor Education (IAIE). Formed with the objective of improving global standards for financial market education, IAIE will: (1) serve as a forum for the exchange of information among providers of financial market education operating in different jurisdictions; (2) establish and promote global best practices and standards for financial market education; and, (3) encourage the establishment of comprehensive financial market education programs. ICSA members believe that educating consumers and other participants in financial markets contributes to the critical goal of protecting investors while also helping to build confidence in securities markets.

Delegates also reviewed the work being done by the ICSA Working Group on Regulatory Transparency to encourage regulators and self-regulators to adopt structured consultation practices in line with the principles and best practices contained in ICSA's *Statement on Regulatory and Self-Regulatory Consultation Practices*. ICSA members believe that an effective and structured consultation process encourages active cooperation between regulators and market participants and greatly helps to improve the quality and efficiency of the rules and regulations that are finally adopted by securities regulators. ICSA members note in particular that the International Organization of Securities Commissions (IOSCO), which is increasingly proposing regulatory guidelines

that are subsequently adopted by national securities market regulators, does not have a structured procedure for public consultation with industry participants. To encourage national, regional and international regulators and self-regulators to adopt structured consultation policies, ICSA members agree to: (1) encourage their domestic regulators to implement the principles contained in the *ICSA Statement on Regulatory and Self-Regulatory Consultation Practices*; (2) encourage other regulators and international organizations, in particular the World Trade Organization, the European Union, CESR and the International Accounting Standards Board, to follow the principles and best practices contained in the *ICSA Statement on Regulatory and Self-Regulatory Consultation Practices* in their own practices and incorporate those principle and best practices in the trade and other types of agreements that they negotiate and/or endorse; and, (3) urge their domestic regulators to persuade IOSCO of the importance of adopting an open and structured consultation policy with market participants. In addition, ICSA members agreed to notify the ICSA Secretariat of specific areas where serious recurrent difficulties in the domestic consultation process are evident. The Working Group will review members' actions and the results achieved and report to the membership at ICSA's 2005 Interim Meeting.

ICSA members also reviewed the work being done by the ICSA Working Group on Global Accreditation. In view of the increasingly global nature of financial markets, ICSA members noted and affirmed their previous agreement to promote the development of proficiency standards for financial market professionals using a competency-based education and training framework. Under a system of global accreditation, financial market professionals would be able to move more easily between financial centers and have access to other financial markets, with their accreditation functioning much like a passport. ICSA members noted with interest the work being done by the International Standards Organization to develop a global standard for financial advisers and committed themselves to examining existing models for cross-border proficiency and accreditation of financial market professionals with the objective of identifying and promoting a specific model for the industry to adopt.

The increased frequency of terrorist and cyber net attacks has raised awareness of the importance of business recovery and continuity planning among government and business leaders. Such planning is particularly important for financial services, both because of the interdependent nature of financial markets and because the financial system itself may be a terrorist target. During the 2004 AGM, ICSA members continued their discussion of contingency planning for securities firms, specifically reviewing the work that has been done to promote contingency planning in the securities industry in the U.S. and in other ICSA member jurisdictions. Delegates endorsed ICSA's *Business Planning Continuity Guidelines for Securities Firms* and agreed to encourage their member firms to review and utilize the best practices outlined in that document. ICSA members also committed themselves to sending copies of the *ICSA Business Planning Continuity Guidelines for Securities Firms* to their own regulators and authorized ICSA's Secretariat to send a copy of the document to IOSCO.

ICSA members discussed the use of corporate, trust and other non-individual accounts to conceal insider trading, market manipulation, money laundering and other improper activities, particularly when those accounts are held in offshore financial institutions that are not subject to national legal or regulatory requirements. The relevant international standard for these types of accounts, the Financial Action Task Force's (FATF) revised 40 Recommendations, requires dealers to ascertain the beneficial owners of non-individual accounts. However, this requirement is not mandatory until it is incorporated into national legislation. Delegates reviewed the issues encountered by one ICSA member, the Investment Dealers Association of Canada (IDA), in adopting a beneficial ownership requirement in Canada. ICSA members agreed to encourage their domestic legislators and regulators to adopt appropriate legislation and/or regulatory guidance incorporating the relevant sections of the revised FATF 40 Recommendations, without which measures against money laundering cannot be fully effective. ICSA members also noted the importance of international cooperation among regulators in this critical area and urged regulatory authorities to respond in a timely manner to requests from other regulators for information related to suspected money laundering activities.

ICSA delegates reviewed the substantial progress made over the past several years to strengthen the international financial architecture for resolving emerging market debt crises. In particular, delegates discussed the development and growing use of collective action clauses (CACs) in sovereign bond issues as well as the work being done to implement a set of principles that would govern the behavior of official lenders, issuers and investors when dealing with sovereign financial crises and debt restructurings. ICSA members endorsed the market-based approach to resolving emerging market financial crises as embodied in the collective action clauses while also noting that the development and implementation of a market-oriented set of principles should further strengthen the international financial architecture. Crisis resolution should include a commitment from debtors and creditors to make creditor committees a viable part of the process.

ICSA members discussed the impact of the large number of corporate scandals over the past several years on investors' trust and confidence in securities markets and financial intermediaries. After reviewing some of the measures proposed to restore private sector confidence in securities market and financial intermediaries, ICSA delegates discussed the OECD's recently revised Principles of Corporate Governance.

ICSA delegates considered the regulation of soft commissions and recent calls for payment for research and other services to be "unbundled" from execution. They reviewed recent developments in several jurisdictions and discussed the decision by the UK's Financial Services Authority to give the industry time to develop and test a framework for soft commissions based on enhanced disclosure. Delegates agreed that any solution to the dilemma posed by soft commissions should support competitive markets in the brokerage and fund management industries and that the appropriate policy objective was the development of a disclosure-based framework of "best practices" for such arrangements. ICSA delegates also agreed to exchange information about policy

developments regarding soft commissions and unbundling in their respective jurisdictions with a view to forming a Working Group on Payment for Research.

Japan's ongoing process of financial market liberalization will accelerate later this year when banks will be able, for the first time, to conduct securities transactions with retail investors. ICSA members discussed the challenges that will be faced by Japanese securities firms and regulators in this new environment, including the potential for increased conflicts of interest within the banks. After considering these possible problems, ICSA members noted the continuing liberalization of Japan's financial market while keeping a cautious eye on various issues pertaining to the securities business operations of banks.

Credit rating agencies (CRAs) have attracted a great deal of attention from regulators and market participants over the past several years due to concerns about the objectivity and fairness of the credit rating process. The rating agencies have also come under increased scrutiny because of the role that credit ratings will play internationally once Basel II and the EU's Capital Adequacy Directive are fully implemented. As a result, regulators in the U.S. are questioning if credit ratings should continue to be used for regulatory purposes while both the U.S. and the EU are examining the need for regulatory oversight of the rating agencies. Given the possibility that credit rating agencies will be subject to regulation in one or more jurisdictions in the near future, ICSA members believe it is essential that any regulation imposed on credit rating agencies must be proportionate and uniform across jurisdictions and that regulators must be careful to avoid the perception that they are influencing credit ratings in any specific direction. In the event that regulations for competitive CRAs are proposed, delegates commit themselves to working with their national regulators to promote the development of a uniform regulatory and supervisory framework for credit rating agencies across jurisdictions.

In addition to the presentations by ICSA delegates, participants at the 2004 AGM benefited from presentations by a large number of guest speakers on a variety of topics. These speakers included Robert Pickel, Managing Director of the International Swaps and Derivatives Association, who briefed ICSA delegates on the status of ongoing negotiations between the International Accounting Standards Board (IASB) and the EU regarding the IASB's recently released rules for derivatives; Pierre Delsaux, Head of the European Commission's Directorate for Securities Markets and Investment Services Providers, who presented an overview of the European Commission's assessment of the state of integration of European financial markets; Robert Gray, Chairman of the Debt Financing and Advisory Unit of HSBC and Chairman of the International Primary Market Association (IPMA), who discussed the private sector's recent success in building a consensus in favor of collective action clauses for sovereign bonds as well as the progress reached on a set of principles for sovereign issuers, official lenders and investors; Mats Isaksson, Head of the Corporate Affairs Division of the OECD, who spoke to ICSA members about the potential implications of the OECD's revised Principles of Corporate Governance; Claes Norgren, former Chairman of the Banking Advisory Committee of the

Basel Committee on Banking Supervision and currently Chairman of the Competition Authority of Sweden and the Financial Action Task Force (FATF), who provided an overview of Basel II and the remaining issues that need to be resolved; and Hans Jacobson, Director General of Sweden's Premium Pension Authority (PPA), who discussed the lessons from Sweden's recent reform of its pension system.

The following associations are members of ICSA:

Association Francaise des Entreprises d'Investissement, France
Australian Financial Markets Association, Australia
Bond Exchange of South Africa, South Africa
Bond Market Association, United States
Chinese Taiwan Securities Association, Taiwan
International Banks and Securities Association of Australia, Australia
International Primary Market Association, United Kingdom
International Securities Market Association, Switzerland
Investment Dealers Association of Canada, Canada
Italian Association of Financial Intermediaries, Italy
Japan Securities Dealers Association, Japan
Korea Securities Dealers Association, Korea
London Investment Banking Association, United Kingdom
NASD, United States
Securities Industry Association, United States
Swedish Securities Dealers Association, Sweden

