



Japan Securities Dealers Association

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Ms. Rohini Tendulkar
IOSCO General Secretariat
C/ Oquendo 12, 28006 Madrid,

RE: Comments to Task Force on Cross-Border Regulation

Dear Ms. Tendulkar,

The Japan Securities Dealers Association appreciates the opportunity to provide the following comments to the IOSCO Task Force on Cross-Border Regulation.

1. Choosing a tool fitting a specific regulatory objective

As described in the IOSCO's "Objectives and Principles of Securities Regulation", securities regulation is assumed have three fundamental objectives: protecting investors; ensuring that markets are fair, efficient and transparent; and reducing systemic risk. In considering cross-border regulation, the most suitable regulatory tool would need to be selected depending on which objectives are to be served. In light of the need to pursue specific objectives, a certain level of flexibility should be allowed to accommodate specific situations in each country or jurisdiction. As regards investor protection, the jurisdiction by jurisdiction differences should be taken into consideration, in particular, in the level of investors' financial literacy and the judiciary framework in establishing fairness in securities markets.

2. Remedies for duplicate regulations

As more diverse financial and securities transactions have been conducted on a cross-border basis, regulation in one jurisdiction may be applied not only to financial institutions conducting transactions in the same jurisdiction but also to institutions and markets outside the jurisdiction. Furthermore, these cases are often accompanied by regulatory duplication and conflict. The IOSCO is expected to investigate the modalities in which such regulatory duplication and conflict may occur, sort out the problems in accordance with regulatory objectives, and work out ways to reflect the findings in the regulatory development process in each country or jurisdiction.

3. Ensuring consistency with the WTO rules

Regarding cross-border regulation, it may also be advisable to examine the consistency with the World Trade Organization (WTO) financial services agreement, in particular, in relation to the agreement's national treatment implications or its treatment of prudential measures.¹

We hope these comments will be of help to the Task Force's further deliberation on this issue.

Best regards



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¹ The Annex on Financial Services of the WTO agreement (2. Domestic Regulation (a)) provides that a member shall not be prevented from taking measures for prudential reasons, including for the protection of investors, or to ensure the integrity and stability of the financial system. (http://www.wto.org/english/tratop_e/serv_e/10-anfin_e.htm)