

**REPRESENTATIVES OF REGULATORY BODIES FROM 16 COUNTRIES RESPONSIBLE FOR SUPERVISING THE ACTIVITIES OF THE WORLD'S MAJOR FUTURES AND OPTIONS MARKETS (COLLECTIVELY, THE "AUTHORITIES") MET ON 16 AND 17 MAY 1995 AT WINDSOR IN THE UNITED KINGDOM AND DETERMINED TO ISSUE THE FOLLOWING:**

**WINDSOR DECLARATION**

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**THE AUTHORITIES** reviewed recent developments in, and discussed the regulatory implications of, the increasing volume of cross-border transactions on international futures and options exchanges increasingly linked by common members and participants and similar products

**THE AUTHORITIES** took note of previous work on international regulatory co-operation and exchanged views on specific co-operative measures to strengthen regulatory supervision, minimise systemic risk and enhance customer protection with a view to preventing or containing the adverse effects of financial disruptions. In particular, they addressed issues related to:

- Co-operation between market authorities
- Protection of customer positions, funds and assets
- Default procedures
- Regulatory co-operation in emergencies

**THE AUTHORITIES** noted that these are issues of importance to all futures and options exchanges, and clearing houses (collectively, "markets") in consequence of which:

**I. THE AUTHORITIES REACHED THE FOLLOWING POINTS OF CONSENSUS**

The increasingly, members of one market or companies materially associated with such members, trade for themselves or customer in multiple jurisdictions. Mechanisms should be in place to ensure that enhanced co-operation and communication occurs necessary between regulators and/or market authorities to minimise the adverse consequences of market disruptions caused by defaults or other failures. This is because an individual regulator or market authority alone may not have information on all material exposures of market members, financial intermediaries and any materially associated companies. ACCORDINGLY, the Authorities will support, subject to appropriate confidentiality protections, mechanisms to improve prompt communication of information relevant to material exposures and other regulatory concerns.

That protection of customer positions, funds and assets carried by financial intermediaries plays an important role in customer protection and the reduction of the potential for systemic risk. ACCORDINGLY, the Authorities will review the **adequacy**

of existing arrangements to minimise the risk of loss through insolvency or misappropriation and enhance such arrangements as appropriate.

That effective exchange and clearing house default procedures coupled with other regulatory measures, such as effective margining systems, can mitigate the risk of losses arising from the inability of solvent participants to close out or manage their exposures to a failing market member and the consequent potential for systemic failure.

ACCORDINGLY, the Authorities, cognisant of national insolvency regimes, will promote as appropriate national provisions and market procedures that facilitate the prompt liquidation and/or transfer of positions, funds and assets, from failing members of futures exchanges.

That recent market developments require effective international co-ordination and timely communication of reliable information which is essential for supervisory purposes when a financial intermediary, a market member, or a market experiences material financial or operational difficulties. ACCORDINGLY, the Authorities will support measures to enhance emergency procedures at financial intermediaries, market members and markets and to improve existing mechanisms for international co-operation and communication among market authorities and regulators.

## **II. THE AUTHORITIES AGREED TO PROMOTE**

- Active surveillance within each jurisdiction of large exposures by market authorities and/or regulators as appropriate.
- Development of mechanisms to ensure that customer positions, funds and assets can be separately identified and held safe to the maximum extent possible and in accordance with national law.
- Enhanced disclosure by the markets of the different types and levels of protection of customer funds and assets which may prevail, particularly when they are transferred to different jurisdictions, including through omnibus accounts.
- Record-keeping systems at exchanges and clearing houses and/or market members which ensure that positions, funds and assets to be treated as belonging to customers can be satisfactorily distinguished from other positions, funds and assets.
- Enhanced disclosure by markets to participants of the rules and procedures governing what constitutes a default and the treatment of positions, funds and assets of member firms and their clients in the event of such a default.
- The immediate designation by each regulator of a contact point for receiving information or providing other assistance to other regulators and/or market authorities and the means to assure twenty-four hour availability of contact personnel in the event of disruption occurring at a financial intermediary, market member or market.
- Review of existing lists and assuring maintenance by IOSCO of an international regulatory contacts list.
- The development by financial intermediaries, market members or markets and regulatory authorities of contingency arrangements, or a review of the adequacy of existing arrangements, and enhancement as appropriate.

### **III. THE AUTHORITIES RECOMMENDED THAT FURTHER WORK SHOULD BE UNDERTAKEN IN THE APPROPRIATE INTERNATIONAL BODIES TO CONSIDER.**

#### **1. With respect to co-operation between market authorities:**

A survey of current procedures for identifying large exposures in individual markets;

The type of information which may assist regulators and markets to evaluate the exposure of market members, financial intermediaries and any materially associated companies;

The circumstances, including triggers or thresholds, for obtaining such information;

Mechanisms whereby large exposure and other relevant information is and could be shared on a bilateral or multilateral basis among regulators and markets;

Arrangements to ensure confidentiality and that such information is used solely for the regulatory purpose for which it was provided; and

Arrangements to strengthen the regulatory oversight of financial groups operating internationally.

#### **2. With respect to protection of customer positions, funds and assets:**

The current types and levels of protection in different jurisdictions with respect to customer funds and assets; how best to facilitate better and more consistent protection among jurisdictions; and how best to assure continued protection when funds and assets are transferred to another intermediary or jurisdiction or held in a bank affiliated with the intermediary;

The development of best practices with regard to: the treatment of customer positions, funds and assets and how they are distinguished from intermediary's own positions, funds and assets, including when held in omnibus accounts, with a view to maximising the safety of those funds and assets; and

The development of best practices with regard to risk management for the protection of the intermediary.

#### **3. With respect to default procedures:**

The development of best practices by market authorities with regard to the treatment of positions and funds in the event of a financial disruption at a member firm so as to permit the prompt isolation of the problem at the failing firm;

The development of best practices with regard to the handling of customer positions, funds and assets held in omnibus accounts at markets in the event of a default;

The development of standards for information to be made available to customers as to the default and assessment procedures of markets;

The establishment of means whereby information can efficiently and effectively be communicated by the relevant market authorities to market participants in the event that default procedures are implemented; and

The types of arrangements that might apply in the event that the position to be liquidated by market is of a size that threatens the stability of the market.

#### **4. With respect to regulatory co-operation in emergencies:**

The development of best practices for control and management of a significant business disruption by financial intermediaries, market members and markets.

**THE CHAIRMAN OF THE TECHNICAL COMMITTEE OF IOSCO AND THE SECRETARY GENERAL OF IOSCO, who attended the Windsor meeting, endorsed the proposal to take matters forward promptly under the auspices of IOSCO, in close consultation with the markets and market authorities.**

**THE AUTHORITIES FURTHER AGREED THAT** the work identified above should begin immediately through the Technical Committee of IOSCO. The Chairmen of the Securities and Investment Board and Commodity Futures Trading Commission have been invited to report interim progress at the next meeting of the Technical Committee in Paris on 9 and 10 July.

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## **ANNEX 1**

### **LIST OF AUTHORITIES ATTENDING WINDSOR MEETING**

#### **Australia**

ASC - Australian Securities Commission

#### **Brazil**

CVM - Comissão de Valores Mobiliários

#### **Canada**

Commission des Valeurs Mobilières du Quebec  
Ontario Securities Commission

#### **France**

COB - Commission des Opérations de Bourse

#### **Germany**

BAWe - Bundesaufsichtsamt für den Wertpapierhandel

#### **Hong Kong**

COB - Commission des Opérations de Bourse

**Italy**

CONSOB - Commissione Nazionale per le Società e la Borsa

**Japan**

Securities Bureau of the Ministry of Finance

**Netherlands**

Securities Board of the Netherlands

**Singapore**

The Monetary Authority of Singapore

**South Africa**

Financial Services Board

**Spain**

CNMV - Comisión Nacional del Mercado de Valores

**Sweden**

Swedish Financial Supervisory Authority

**Switzerland**

The Federal Banking Commission

**United States of America**

CFTC - Commodity Futures Trading Commission

SEC - Securities & Exchange Commission

**United Kingdom**

SIB - Securities and Investment Board

## ANNEX 2

Particular note was taken of the following reports produced by IOSCO's Technical Committee:

- Principles for the Supervision of Financial Conglomerates (October 1992).
- Mechanisms to Enhance Open and Timely Communication between Market Authorities of Related Cash and Derivative Markets during Periods of Market Disruption (October 1993).
- Operational and Financial Risk Management Control Mechanisms for the Over the Counter Derivatives Activities of Regulated Securities Firms (July 1994).
- Framework of Supervisory Information about the Derivatives Activities Banks and Securities Firms (Joint Paper with the Basle Committee of Banking Supervision (May 1995)).

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