

## **A Resolution Concerning Cross-Border Transactions**

**Passed by the Presidents' Committee  
July 1995**

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 May 16 and 17 at Windsor in the United Kingdom.

After reviewing recent developments in, and discussing 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 issued the "Windsor Declaration" which reflects points of consensus on four issues of importance to regulatory authorities, financial intermediaries, futures and options exchanges and clearing houses: cooperation between exchanges; protection of customer positions, funds and assets; default procedures; and regulatory cooperation in emergencies.

IOSCO welcomes this initiative and, after reviewing the Windsor Declaration and with a view to encouraging cooperative measures to strengthen regulatory supervision, minimize systemic risk and enhance customer protection IT IS RESOLVED that the Presidents' Committee:

- 1) supports further work by the Technical Committee of IOSCO as discussed in the Windsor Declaration;
- 2) asks the members of IOSCO to take all steps that are necessary and appropriate in their home jurisdictions to endorse and promote the measures agreed upon in the Windsor Declaration to all cross-border transactions.

**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 MAY 16 AND 17, 1995 AT WINDSOR IN THE UNITED  
KINGDOM AND DETERMINED TO ISSUE THE FOLLOWING:**

### **WINDSOR DECLARATION**

**THE AUTHORITIES** received 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

cooperation and exchanged views on specific cooperative measures to strengthen regulatory supervision, minimize 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:

- Cooperation between market authorities;
- Protection of customer positions, funds and assets;
- Default procedures;
- Regulatory cooperation 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:**

That increasingly, members of one market or companies materially associated with such members, trade for themselves or customers in multiple jurisdictions. Mechanisms should be in place to ensure that enhanced cooperation and communication occurs as necessary between regulators and / or market authorities to minimize 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 minimize 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 coordination 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 cooperation 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 of 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 Cooperation 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 Position, 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, fund and assets, including when held in omnibus accounts, with a view to maximizing the safety of those funds

and assets; and

The development of best practices with regard to risk management for 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 a market is of a size that threatens the stability of the market.

### **4. With Respect to Regulatory Cooperation 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 Investments Board and Commodity Futures Trading Commission have been invited to report interim progress at the next meeting of the Technical Committee in Paris on July 9 and 10.

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

### **Australia**

Australian Securities Commission

### **Brazil**

Comissão de Valores Mobiliários

### **Canada**

Commission des valeurs mobilières du Québec

Ontario Securities Commission

### **France**

Commission des opérations de bourse

### **Germany**

Bundesaufsichtsamt für den Wertpapierhandel (BAWe)

### **Hong Kong**

Securities and Futures Commission

### **Italy**

Commissione Nazionale per le Società e la Borsa

### **Japan**

Securities Bureau of the Ministry of Finance

### **Netherlands (The)**

Securities Board of The Netherlands

### **Singapore**

The Monetary Authority of Singapore

**South Africa**

Financial Services Board

**Spain**

Comisión Nacional del Mercado de Valores

**Sweden**

Swedish Financial Supervisory Authority

**Switzerland**

The Federal Banking Commission

**United Kingdom**

Securities and Investments Board

**United States of America**

Commodity Futures Trading Commission

Securities and Exchange Commission

## ANNEX II

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 for Supervisory Information About the Derivatives Activities of Banks and Securities Firms \(Joint Paper with the Basle Committee on Banking Supervision\)](#) (May 1995).



# RESOLUTION CONCERNING CROSS-BORDER TRANSACTIONS

## Presidents' Committee July 1995

<b>Jurisdiction</b>	<b>Name of the Organization</b>	<b>Signed</b>
<b>REGULAR MEMBERS</b>		
1 – ALGERIA	Commission d'Organisation et de Surveillance des Opérations de Bourse	
2 – ARGENTINA	Comisión Nacional de Valores	
3 – AUSTRALIA	Australian Securities and Investments Commission	
4 – AUSTRIA	Austrian Securities Authority	Yes (N-4) (98-07-31)
5 – BAHAMAS	Securities Board (The Commonwealth of The Bahamas)	
6 – BAHRAIN (State of)	Bahrain Stock Exchange	
7 – BANGLADESH	Securities and Exchange Commission	
8 – BARBADOS	Securities Exchange of Barbados	
9 – BELGIUM	Commission bancaire et financière	Yes (N-9) (98-07-31)
10 – BERMUDA	The Bermuda Monetary Authority	
11 – BOLIVIA	Superintendencia de Valores	
12 – BRAZIL	Comissão de Valores Mobiliários	Yes (N-12) (98-07-31)
13 – BULGARIA	Securities and Stock Exchanges Commission	
14 – CHILE	Superintendencia de Valores y Seguros	
15 – CHINA (People's Republic of)	China Securities Regulatory Commission	
16 – COLOMBIA	Superintendencia de Valores	
17 – COSTA RICA	Superintendencia General de Valores	
18 – CROATIA (Republic of)	Securities and Exchange Commission	
19 – CYPRUS (Republic of)	Central Bank of Cyprus	
20 – DENMARK	Finanstilsynet	

21 – DOMINICAN REPUBLIC	Banco Central de la República Dominicana	
22 – ECUADOR	Superintendencia de Compañías	
23 – EGYPT	Capital Market Authority	
24 – EL SALVADOR	Superintendencia de Valores	
25 – FINLAND	Financial Supervision Authority	
26 – FORMER YUGOSLAV REPUBLIC OF MACEDONIA	Securities and Exchange Commission	
27 – FRANCE	Commission des Opérations de Bourse	
28 – GERMANY	Bundesaufsichtsamt für den Wertpapierhandel (BAWe)	
29 – GREECE	Capital Market Commission	
30 – GUERNSEY	Guernsey Financial Services Commission	
31 – HONG KONG	Securities and Futures Commission	
32 – HUNGARY	Hungarian Banking and Capital Market Supervision	
33 – INDIA	Securities and Exchange Board of India (SEBI)	Yes (N-33) (98-08-17)
34 – INDONESIA	Indonesian Capital Market Supervisory Agency	
35 – IRELAND	Central Bank of Ireland	
36 – ISLE OF MAN	Financial Supervision Commission	
37 – ISRAEL	Israel Securities Authority	
38 – ITALY	Commissione Nazionale per le Società e la Borsa	
39 – JAMAICA	Securities Commission	
40 – JAPAN	Financial System Planning Bureau of the Ministry of Finance	
41 – JERSEY	Jersey Financial Services Commission	
42 – JORDAN	Jordan Securities Commission	
43 – KAZAKHSTAN (Republic of)	National Securities Commission	
44 – KENYA	Capital Markets Authority	
45 – KOREA	Financial Supervisory Commission	
46 – KYRGYZ REPUBLIC	National Commission on Securities Market	

47 – LITHUANIA	Lithuanian Securities Commission	
48 – LUXEMBOURG (Grand Duchy of)	Commissariat aux Bourses	
49 – MALAYSIA	Securities Commission	
50 – MALTA	Malta Stock Exchange	
51 – MAURITIUS (Republic of)	Stock Exchange Commission	
52 – MEXICO	Comisión Nacional Bancaria y de Valores	
53 – MOROCCO	Conseil Déontologique des Valeurs Mobilières	
54 – NETHERLANDS (The)	Stichting Toezicht Effectenverkeer	
55 – NEW ZEALAND	Securities Commission	Yes (98-07-15)
56 – NIGERIA	Securities and Exchange Commission	
57 – NORWAY	Kredit Tilsynet	
58 – OMAN (Sultanate of)	Muscat Securities Market	
59 – ONTARIO	Ontario Securities Commission	
60 – PAKISTAN	Corporate Law Authority / Government of Pakistan	
61 – PANAMA	Comisión Nacional de Valores	
62 – PAPUA NEW GUINEA	Securities Commission	
63 – PARAGUAY	Comisión Nacional de Valores	
64 – PERU	Comisión Nacional Supervisora de Empresas y Valores	
65 – PHILIPPINES	Securities and Exchange Commission	
66 – POLAND	Polish Securities and Exchange Commission	
67 – PORTUGAL	Comissão do Mercado de Valores Mobiliários	
68 – QUEBEC	Commission des valeurs mobilières du Québec	
69 – ROMANIA	Romanian National Securities Commission	
70 – RUSSIA	Federal Commission for the Securities Market of the Russian Federation	
71 – SINGAPORE	The Monetary Authority of Singapore	
72 – SLOVENIA	Securities Market Agency	

73 – SOUTH AFRICA	Financial Services Board	Yes (N-73) (98-07-31)
74 – SPAIN	Comisión Nacional del Mercado de Valores	
75 – SRI LANKA	Securities and Exchange Commission of Sri Lanka	
76 – SWEDEN	Finansinspektionen	
77 – SWITZERLAND	Commission Fédérale des Banques	
78 – CHINESE TAIPEI	Securities and Futures Commission	
79 – TANZANIA	Capital Markets and Securities Authority	
80 – THAILAND	Office of the Securities and Exchange Commission	
81 – TRINIDAD AND TOBAGO	Trinidad and Tobago Securities and Exchange Commission	
82 – TUNISIA	Conseil du Marché Financier	
83 – TURKEY	Capital Market Board	
84 – UKRAINE	Ukrainian Securities and Stock Market State Commission	
85 – UNITED KINGDOM	Financial Services Authority	Yes (N-85) (98-07-31)
86 – UNITED STATES OF AMERICA	United States Securities and Exchange Commission	Yes (98-07-31)
87 – URUGUAY	Banco Central del Uruguay	
88 – VENEZUELA	Comisión Nacional de Valores	
89 – ZAMBIA	Securities and Exchange Commission	

#### **ASSOCIATE MEMBERS**

90 – ALBERTA	Alberta Securities Commission	
91 – BRITISH COLUMBIA	British Columbia Securities Commission	
92 – JAPAN	Ministry of Agriculture, Forestry and Fisheries	
93 – JAPAN	Ministry of International Trade and Industry (MITI)	
94 – JAPAN	Securities and Exchange Surveillance Commission	
95 – LEBANON	Banque du Liban	

96 – LUXEMBOURG (Grand Duchy of)	Institut Monétaire Luxembourgeois
97 – UNITED STATES OF AMERICA	Commodity Futures Trading Commission
98 – UNITED STATES OF AMERICA	North American Securities Administrators Association, Inc. (NASAA)