

June 15, 2004

Ms. Andrea Pryde
International Accounting Standards Board
30 Cannon Street
London EC4M 6XH
United Kingdom

Re: Strengthening the IASB's deliberative processes

Dear Ms. Pryde:

On behalf of the International Council of Securities Associations (ICSA)¹, we are writing to you in response to the IASB's request for public comment on its deliberative processes. We believe it is in the best interest of financial market participants that IASB's activities are open to public consultation. Therefore, ICSA is strongly supportive of the IASB's proposal for improved public comment and consultation.

One of ICSA's main missions is to encourage the growth of international securities markets by promoting harmonization in the procedures and regulation of those markets. To that end, ICSA has recently issued a *Statement on Regulatory and Self-regulatory Consultation Practices*, which is enclosed with this letter. As we note in the enclosed document, ICSA members believe that transparent regulatory systems are essential for the development and stability of the international securities market. ICSA members also believe that transparency only brings its full benefits in securities markets regulation if there is effective consultation between regulators, self-regulatory organizations and market participants. Consultation, in turn, requires a genuine invitation to give advice and proper consideration of the advice given. 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.

¹ ICSA is composed of trade associations and self-regulatory associations for the securities industry in eleven countries as well as a number of international trade associations. ICSA's members represent and/or regulate the firms that carry out the majority of the activity on the world's equity, bond and derivatives markets. A list of ICSA members is attached to this letter.

We are very grateful that the IASB has decided to review its deliberative processes and are specifically heartened by the IASB's statement that it, "...accepts the need to develop internal working procedures that set a new global standard for transparency and consultation". We believe that the principles and best practices contained in the *ICSA Statement on Regulatory and Self-Regulatory Consultation* do indeed set a global standard for transparency and consultation practices.

Sincerely,

A handwritten signature in dark ink, appearing to read "John R. Langton", with a horizontal line drawn underneath the signature.

John Langton, Chief Executive and
Secretary General, International Securities
Market Association (ISMA) and
Chairman, ICSA Advisory Committee

A handwritten signature in dark ink, appearing to read "Adam Ridley", written in a cursive style.

Sir Adam Ridley, Director General
London Investment Banking Association
(LIBA) and Chairman, ICSA Working
Group on Regulatory Transparency

The members of ICSA are as follows:

Association Française 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, Chinese Taiwan

Italian Association of Financial Intermediaries, Italy

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

Japan Securities Dealers Association, Japan

The Korea Securities Dealers Association, Korea

London Investment Banking Association, United Kingdom

NASD, United States

Securities Industry Association, United States

Swedish Securities Dealers Association, Sweden



Statement on Regulatory and Self-Regulatory Consultation Practices

March 5, 2004

ICSA **International Council of Securities Associations**

The members of the International Council of Securities Associations¹ believe that transparent regulatory systems are essential for the development and stability of capital markets for several reasons. First, regulatory transparency can enhance the effectiveness of regulatory policies because it allows financial market participants to better understand the goals and instruments of those policies, thereby greatly strengthening the potential for cooperation between regulators and market participants. Second, by enabling market participants and the general public to provide feedback on proposed regulations, regulatory transparency improves the decision making process of securities regulators while also reducing the risk that new policies will have unintended, and negative, consequences for financial markets. This is particularly important for topics on which the regulators themselves have little or no first-hand knowledge and experience. Third, regulatory transparency improves accountability since it helps to ensure that the rules and regulations introduced into financial markets are unbiased.

Transparency only brings its full benefits in securities markets regulation if, as in other complex and specialized policy areas, there is at all times effective consultation between securities regulators and market participants as well as between regulators and self-regulators. The term ‘regulator’ is intended to cover all bodies that are authorized pursuant to law to play a role in the licensing and supervision of the activities of financial services firms, financial markets and financial services products, as well as the bodies that formulate rules, regulations and policies relating to such firms, markets and products. Where the legislature or authorized regulator delegates its authority to a non-

¹ The membership of the International Council of Securities Associations (ICSA) includes self-regulatory and trade associations for the securities industry in ten countries as well as a number of international trade associations. ICSA members represent the overwhelming majority of the world's equity, bond and derivatives markets. ICSA's objectives are to encourage the sound growth of the international securities markets by promoting harmonization in the procedures and regulation of those markets and to promote mutual understanding and the exchange of information among ICSA members. A list of the individual members of ICSA is attached to this document.

governmental entity such as a self-regulatory organization or trade association, the term is intended to encompass such an entity

Consultation requires a genuine invitation to give advice and proper consideration of the advice given. 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. The importance of consultation as a complement to regulatory transparency has been recognized by many national securities regulators as well as by IOSCO and the Committee of European Securities Regulators.

Based on these considerations, the members of the International Council of Securities Associations propose the following principles as a framework for consultation “best practices” in their respective jurisdictions:

1. The “Ideas” Stage

Consultation brings real benefits at every stage of policy development. Like market research or the testing of engineering prototypes, it should be started at the “ideas” stage, before minds are made up and prejudices hardened and while key proposals can still be radically altered or even abandoned with ease. To ensure that policy ideas are exposed to wide debate as early as possible, to the extent possible regulators should initiate preliminary informal consultation in the following manner:

- a. Organize informal discussions at an early stage with a cross section of experts and those most likely to be directly affected by the proposed

regulations and produce a representative analysis of the replies received in a feedback statement²; and,

- b. As a rule, formally publish initial tentative proposals in a preliminary form, e.g. as Discussion Documents or Green Papers, which invite a wide public debate on whether the proposed objectives are appropriate, methods desirable, and the politics feasible.

² These discussions might also take place through established industry committees, including committees of regulatory organizations with industry member participants that allow regulators the opportunity to discuss policy changes with market participants prior to the formal consultation process.

It is acknowledged that there may be exigent circumstances when regulators may need to file or publish for comment well developed rules or policy proposals without the benefit of pre-consultation with market participants. In such cases, constituents should, if feasible, still have the opportunity to provide comment and feedback prior to final implementation of a new or materially amended regulation.

2. Opening consultation to all

Once regulations are in the actual proposal stage, regulators should whenever practical:

- a. Make available to and alert where reasonable the full range of interested parties, including market participants, consumers and end-users, at national and international levels; and,
- b. Make consultation proposals widely known and available through all appropriate means, including public hearings, roundtables, written and Internet consultations.

3. Encouraging a Consultation Culture

In order to ensure that consultations are effective, regulators should:

- a. Promote a consultation culture within their organizations through:
 - (1) a demonstrated commitment to consultation by the top level of management;
 - (2) making consultation with stakeholders part of their mission statement, objectives and business plan; and,
 - (3) educating the staff on the requirements of the consultation program.

- b. To the extent possible, organize staff and timetables to permit a meaningful and effective program of consultation. In particular:
 - 1. Where practical, publish a rolling annual work program or a statement of priorities;
 - 2. Allow all interested parties to be consulted on, or make submissions about, proposed regulations, discussions, documents, guidance, research programs or any other initiatives likely to lead sooner or later to policy action, as well as any relevant mandates from the government;
 - 3. Begin the formal consultation process at a sufficiently early stage so that regulators are able to take all responses into account;
 - 4. Ensure that proper and complete documentation for the proposed regulation is available at the beginning of the formal consultation period;
 - 5. Whenever possible seek comment on the cost and operational implications of the proposed regulations, including their impact on small firms, at a sufficiently early stage in the consultation process so that they can be analyzed by market participants while they are preparing their comments;

6. Consult with all interested parties using a variety of media, including in particular the Internet;
7. Use face-to-face meetings, when appropriate, in order to ensure effective consultation with affected parties;
8. Establish working consultative groups composed of professionals from the associations that represent the securities industry and others who are knowledgeable about the specific topic in order to evaluate proposals where appropriate;
9. As far as possible inform interested parties of the thinking of regulators at various stages of the consultation process, including through the use of concept releases and feedback statements; and,
10. Allow those consulted adequate time to respond, which means amongst other things acknowledging the importance of established holidays. For significant issues regulators should consider meaningful time frames for comment, particularly where the proposed regulations involve more than one country, the issues are novel or where organizing a coherent response amongst market participants and users poses major logistical problems.

4. The importance of a real dialogue between regulators and market participants

In order to respond effectively to the feedback received, regulators should:

- a. Give due consideration to the responses that have been received;
- b. Ensure that all responses to formal consultation are normally put in the public domain unless the respondent requests confidentiality, or publish a summary of the responses received along with a reasoned explanation addressing all major points raised in the consultation process;
- c. Consult for a second time if the response to the first consultation reveals significant problems, or where revised proposals are radically different from the original proposals on which consultation was based.

5. The Best is the Enemy of the Good

It is recognized that the pressure of events or other factors, such as international treaties or legislative timetables, will sometimes make it impossible to follow the best practices addressed in this paper. However, where there is a significant departure from these principles of best practices, regulators should publish their reasons.

The members of ICSA are as follows:

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The Bond Exchange of South Africa, South Africa
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International Primary Market Association, United Kingdom
International Securities Market Association, Switzerland
Investment Dealers Association of Canada, Canada
Japan Securities Dealers Association, Japan
The Korea Securities Dealers Association, Korea
London Investment Banking Association, United Kingdom
NASD, United States³
Securities Industry Association, United States
Swedish Securities Dealers Association, Sweden

³ NASD abstained from voting on this document.