

International Affairs

Overview

“In short, this past decade has seen a tectonic shift in how securities regulators combat cross-border financial crime. In a sense, what we have now is a philosophy of collective security for regulators—we have the authority to view a threat to the integrity of foreign markets as a threat to our own. Those who commit financial crimes can run across borders, but they cannot hide.”

Ethiopia Tafara, Director
Office of International Affairs

20 International Affairs staff:

- Worked with foreign authorities to address cross-border securities fraud, including promoting international information-sharing agreements among foreign securities regulators and law enforcement agencies.
- Promoted internationally the strengthening and implementation of high quality securities regulation and accounting and auditing standards.
- Offered technical assistance to regulators of emerging securities markets.

Key Results

Issue	Result
Cross-Border Enforcement Cooperation	The Commission gained seven new information-sharing partners through the International Organization of Securities Commission’s (IOSCO) Multilateral Memorandum of Understanding (MMOU).

Issue	Result
International Principles for Rating Agencies and Securities Analyst Conflicts of Interest	IOSCO developed international principles for regulators, self-regulatory organizations (SROs), industry associations, and firms to use when addressing securities analyst conflicts of interest and the activities of credit rating agencies.
Regulatory Dialogue with the European Union	We participated in ongoing financial markets dialogue where issues of mutual concern are discussed in order to better understand each other's system of regulation and explore areas of regulatory cooperation and convergence.
International Convergence on Accounting and Auditing Standards	We supported the convergence work underway among the International Accounting Standards Board (IASB), Financial Accounting Standards Board (FASB), and other national accounting standard setters that aims to facilitate cross-border investment by reducing differences in key accounting areas.
Implementation of the Sarbanes-Oxley Act of 2002	We spearheaded the Commission's dialogue with its foreign counterparts to resolve the cross-border issues raised by the SEC's implementation of the Sarbanes-Oxley Act.

Main Activities	Fiscal 2003	Fiscal 2002	% Change
International Policy Initiatives	96	45	+113%
Enforcement Requests to Foreign Jurisdictions	309	448	-31%*
Enforcement Requests from Foreign Authorities	344	353	-3%
Technical Assistance Requests	226	234	-3%

*Between 1997 and 2002, enforcement requests to foreign jurisdictions increased, on average, 14% per year.

Significant International Accomplishments

Cross-Border Enforcement Cooperation

In 2002, IOSCO created a Multilateral Memorandum of Understanding, the first global multilateral information-sharing arrangement among securities regulators. The SEC was among the first signatories to the agreement, and, over the past year, the number of signatories has grown to include 23 other securities and derivatives regulators, including seven jurisdictions with whom the SEC had no prior bilateral information-sharing agreement. The MMOU has significantly enhanced the SEC's enforcement program by increasing the SEC's ability to obtain information from a growing number of jurisdictions worldwide. Moreover, the agreement has created incentives for jurisdictions that lack the legal ability to engage in effective information-sharing to enact legislation that will enable them to do so.

In addition to the 23 other signatories to the IOSCO MMOU, the SEC has bilateral information-sharing arrangements with over 30 other jurisdictions.

The following is a sampling of the year's major enforcement cases with significant international components.

*SEC v. Vivendi Universal.*²⁵ In September 2003, the SEC made an application under section 1103 of the Sarbanes-Oxley Act seeking a temporary order compelling Vivendi, a foreign private issuer, to place a \$23 million payment to the company's former CEO, Jean-

Marie Messier, in escrow, pending an SEC investigation into possible securities laws violations. Investigations by the SEC and by French authorities are continuing.

*In the Matter of Corpro.*²⁶ The Commission filed a complaint seeking an officer and director bar and injunctions against two officers of the Australian subsidiary of a U.S. issuer. The complaint alleged that the two officers committed fraud by falsifying invoices and ledgers, which resulted in the U.S. issuer misstating its financial results. The SEC cooperated with the Australian Securities and Investments Commission (ASIC) in the investigation, and ASIC brought complementary criminal charges against one of the individuals. Litigation on this matter is continuing.

*SEC v. Beacon Hill Asset Management LLC.*²⁷ On November 7, 2002, the Commission charged Beacon Hill Asset Management LLC, a hedge fund manager located in New Jersey, with a violation of the anti-fraud provisions of the Investment Advisers Act of 1940. Beacon Hill managed three feeder hedge funds—Bristol, Safe Harbor, and Milestone—as well as a master fund, an entity in the Cayman Islands through which the feeder funds conducted trading. The Commission's complaint alleges that Beacon Hill reported net asset values and corresponding returns to fund investors that it knew or should have known were materially overstated. The master fund is to be liquidated under Cayman

law, and the SEC and the Cayman Islands Monetary Authority are consulting on

the cross-border impact of the U.S. court proceedings.

International Principles for Rating Agencies and Securities Analyst Conflicts of Interest

This past year, IOSCO, a multilateral group of securities regulators, developed guidance principles relating to the activities of credit rating agencies, and for addressing conflicts of interest affecting securities analysts. Both rating agencies and securities analysts are important market participants that can

assist investors by analyzing important market- and issuer-related information. The two sets of principles are designed to aid regulators, SROs, industry associations and firms themselves in developing oversight and control mechanisms to protect the integrity of both groups.

Regulatory Dialogue

As part of implementation of the Sarbanes-Oxley Act, Commission staff, along with staff from other U.S. financial regulators, engaged in a dialogue with other global securities regulators to discuss ways of identifying SEC proposals that conflict with foreign laws or foreign stock exchange requirements. This dialogue took the form of public roundtables, bilateral and multilateral meetings, and an analysis of foreign comment letters. Where appropriate, and consistent with the spirit and intent of the Act, the SEC has made accommodations for foreign market participants, such as accepting, in place of

board audit committees, other corporate bodies which are independent of management and, under local rules, responsible for overseeing a company's outside auditors.

As part of this initiative, the SEC also engaged in an ongoing informal financial markets dialogue with the European Commission to discuss regulatory issues of mutual concern, enhance understanding of each other's system of regulation, and explore areas of regulatory cooperation and convergence in the development of high quality regulation.

International Accounting and Auditing Oversight

This past year, the Office of International Affairs offered its continued support to the convergence work underway among the IASB, the FASB and other national accounting standard setters that aims to reduce differences in key accounting areas. We also promoted internationally the implementation of IOSCO's principles for enhanced auditor independence and oversight, and supported the creation

of a public interest oversight board over the standard setting work of the International Federation of Accountants. In addition, we worked with the Public Company Accounting Oversight Board (PCAOB) to address the concerns of foreign authorities regarding the international implications of the PCAOB's system for registering accounting firms.

Technical Assistance

The Commission's technical assistance program helps emerging securities markets develop regulatory structures that promote investor confidence and capital formation. The program is multifaceted and includes training programs, review of foreign securities laws, and responses to specific inquiries from foreign regulators. The cornerstone of the Commission's technical assistance program is the International Institute for Securities Market Development, a two-week, management level training program covering the development and oversight of securities markets. In addition, the Commission

conducts a week-long Institute for Securities Enforcement and Market Oversight, covering techniques for investigating securities law violations and oversight of market participants.

During 2003, Commission staff participated in a range of overseas technical assistance and training initiatives, including: a regional disclosure and corporate governance training program in Estonia; a regional broker-dealer regulation program in Montenegro; capital markets and investor education training programs in India; and bilateral assistance initiatives in Colombia, Russia, and the Ukraine.

Outlook for 2004

Our main objectives are to:

- Encourage significantly greater multilateral cooperation in the area of asset freezes and repatriation of assets.
- Contribute to developing an international consensus approach towards client identification and beneficial ownership requirements for securities market intermediaries.
- Coordinate increasingly complex cross-border enforcement assistance—both in requests made by foreign securities regulators and in requests the SEC makes of its foreign counterparts.
- Increase efforts towards regulatory convergence projects on international accounting principles and auditing standards.