

Self-Regulation in Securities Markets

Glossary

This glossary lists organizations and other abbreviations or acronyms used in the Document.

Organizations

This Document uses the abbreviations or acronyms listed below for organizations. The following color pattern denotes the type of organization:

| | |
|-----------------|----------------------|
| Exchange SRO | Securities regulator |
| Independent SRO | Industry association |

| | |
|-------------|-----------------------------------------------------------------------------------------------|
| AMAFI | Association française des marchés financiers (France) |
| AMF | Autorité des marchés financiers (France) |
| AMV | Autorregulador del Mercado de Valores (Colombia) |
| ANBIMA | Brazilian Financial and Capital Markets Association |
| ASIC | Australian Securities and Investments Commission |
| ASX | Australian Securities Exchange |
| BM&FBovespa | BM&FBovespa S.A. (Brazil) |
| BSE | Bombay Stock Exchange Limited (India) |
| BSM | BM&FBovespa Market Supervision (Brazil) |
| CFTC | Commodity Futures Trading Commission (US) |
| CME | Chicago Mercantile Exchange (US) |
| EFSA | European Forum of Securities Associations |
| FESE | Federation of European Securities Exchanges |
| FINRA | Financial Industry Regulatory Authority (US) |
| FSA | Financial Services Authority (UK) |
| HKEx | Hong Kong Exchanges & Clearing |
| ICMA | International Capital Markets Association |
| ICSA | International Council of Securities Associations (association of SROs and trade associations) |
| IDA | Investment Dealers Association (Canada; now merged into IIROC) |
| IIROC | Investment Industry Regulatory Organization of Canada |
| IOSCO | International Organization of Securities Commissions |
| ISDA | International Swaps and Derivatives Association |
| ISE | International Securities Exchange (US) |
| JSDA | Japan Securities Dealers Association |
| KOFIA | Korean Financial Investment Association (Republic of Korea) |
| LSE | London Stock Exchange (UK) |
| MFDA | Mutual Fund Dealers Association (Canada) |
| NASD | National Association of Securities Dealers (US; now merged into FINRA) |

| | |
|--------|----------------------------------------------------------|
| Nasdaq | Nasdaq Stock Exchange (US) |
| NFA | National Futures Association (US) |
| NSE | National Stock Exchange (India) |
| NYSE | New York Stock Exchange (now part of NYSE Euronext) |
| OSE | Osaka Stock Exchange (Japan) |
| SEBI | Securities and Exchange Board of India |
| SEC | Securities and Exchange Commission (US) |
| SFC | Securities and Futures Commission (Hong Kong SAR, China) |
| SGX | Singapore Exchange |
| SIFMA | Securities and Financial Markets Association (US) |
| TMX | TMX Group (Toronto and Montreal Exchanges, Canada) |
| TSE | Tokyo Stock Exchange (Japan) |
| WFE | World Federation of Exchanges |

List of Abbreviations and Acronyms

This paper uses the following abbreviations and acronyms:

| | |
|-----|-------------------------------------------------------------------------|
| ATS | alternative trading system |
| CSD | central securities depository (includes clearing and settlement agency) |
| CEO | chief executive officer |
| EU | European Union |
| MOU | memorandum of understanding |
| OTC | over the counter |
| SRO | self-regulatory organization |

Figure 1

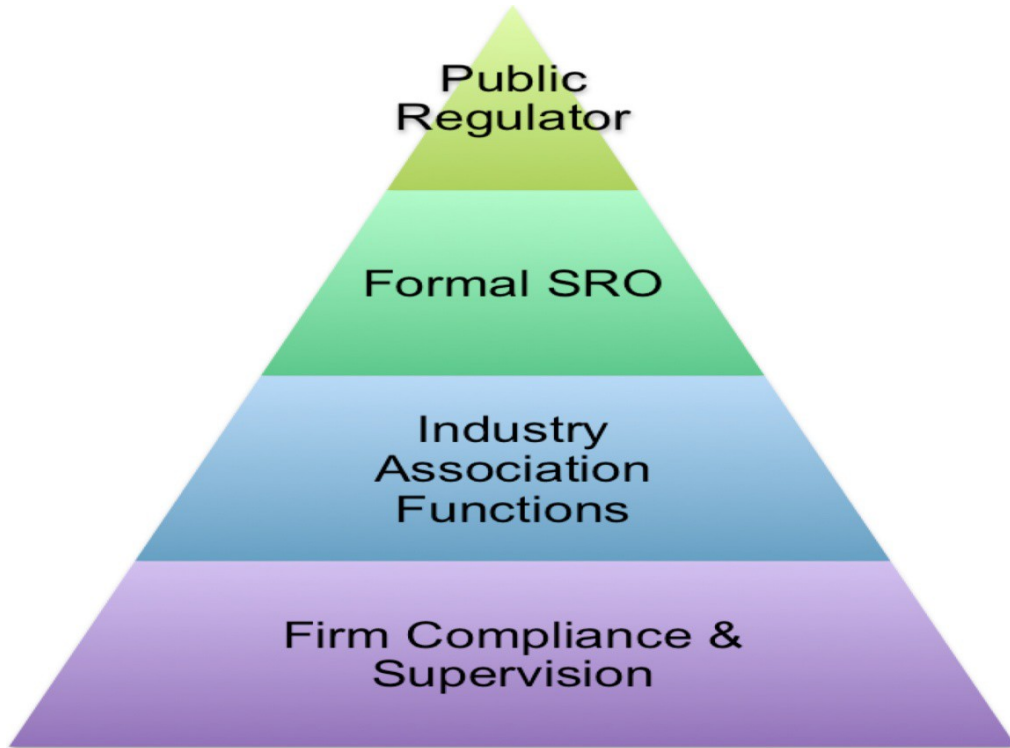


Figure 2: Spectrum of Models of Self-Regulation

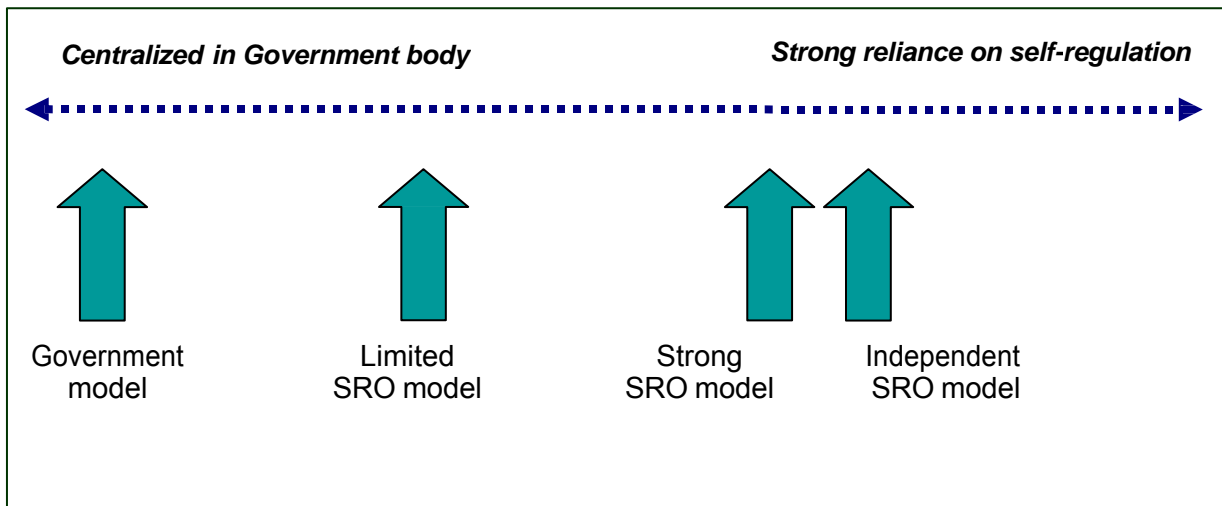


Table 1: Regulatory Structure in Six Major Markets

| | <i>UK</i> | <i>France</i> | <i>Australia*</i> |
|--------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Regulatory Model | Government model. Universal financial regulator. No SROs. A number of recognized Exchanges have limited market regulation functions. | Government model. Central capital markets regulator. No SROs. Exchange (Euronext) has limited market regulation & listing functions. | Strong Exchange SRO model. Separate securities regulator. ASIC is primary regulator. Australian Securities Exchange (ASX) has significant SRO responsibilities. |
| Reliance on self-regulation | Exchanges have minimal supervision role for their markets. No SROs. Industry associations may provide guidance on standards and compliance | Exchanges have minimal supervision role for their markets. No SROs. Industry associations may provide guidance on standards and compliance | Extensive reliance on Exchange to perform self-regulatory responsibilities in securities and futures markets. |
| Recent changes | Establishment of FSA in conjunction with opening London markets to international players. Transfer of SRO responsibilities to FSA. | 2 government authorities merged to form a single body (AMF) to regulate capital markets. SRO functions transferred to government authorities in 1990s. | ASX has reorganized to reinforce the independence of its SRO operations. |
| Major driver of model of regulation | Govt. policy to establish one statutory body as a universal financial regulator. Exchanges seen as licensed, competitive businesses. | Govt. policy to establish AMF as central regulator and to position Bourse as competitive business. A public body should perform regulation. | Govt. policy to require market operators to perform SRO responsibilities. Extensive checks and balances adopted to address conflicts of interest. |

* This outlines the Australian model prior to the transfer of market regulation responsibilities from ASX to ASIC in 2010.

| | <i>US</i> | <i>Canada</i> | <i>Hong Kong SAR, China</i> |
|--------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Regulatory Model | Strong Exchange & Independent SRO models. Significant reliance on self-regulation. Fragmented SRO structure based on numerous Exchanges and 2 independent SROs. | Independent SRO model. Commissions are primary regulators. Significant reliance on self-regulation by 2 independent SROs. | Limited Exchange SRO model. SFC is primary regulator. HKEx has front-line SRO responsibilities. |
| Reliance on self-regulation | Extensive reliance on self-regulation in both securities and futures markets by statute. All Exchanges are SROs and have legal obligation to carry out SRO functions. FINRA and NFA are independent SROs. | Extensive reliance on self-regulation by 2 independent SROs (a securities SRO and a mutual fund dealer SRO). TMX now has minimal regulatory functions. | Limited reliance on HKEx as a SRO for securities and futures markets. |
| Recent changes | NASD and NYSE agreed to consolidate member regulation in a new SRO, FINRA. Also, SEC proposed significant reforms in SRO governance. | Several Exchanges used to be full-fledged SROs. All Exchanges have now merged into TMX. Exchanges' former member and market regulation functions now performed by IIROC, an independent SRO. | In conjunction with creation and demutualization of new HKEx, SFC assumed responsibility for regulating intermediaries and for most market regulation functions. SFC decided not to take over listings functions but has a strong role in issuer regulation issues. |
| Major driver of model of regulation | Congress established the structure based on reliance on self-regulation by Exchanges and NASD. SROs are now subject to strong oversight by SEC. CFTC oversight of SROs / Exchanges in commodity futures industry is lower. | Commissions support reliance on SROs for front-line regulation. Securities industry pushed for consolidation of SROs and for independent SROs to provide efficient, uniform and neutral regulation, and to foster competitors to TMX. TMX aims to focus on its business and offload regulation responsibilities. | Government policy to establish Commission (SFC) as primary regulator, and to establish HKEx as a dynamic business to foster a globally competitive capital market. HKEx wanted to retain front-line regulation role. |

Table 2-1: Division of Regulatory Responsibilities

| Level of regulation | Responsibilities | Regulatory activities |
|-------------------------------------|-----------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Overall market regulation | Overall supervision of markets and intermediaries' market conduct and trading practices | <ul style="list-style-type: none"> ▪ Rule making ▪ Supervision ▪ Enforcement |
| 2. Market conduct standards | Principles of fair dealing, regulation of insider trading, deceptive and manipulative trading | <ul style="list-style-type: none"> ▪ Rule making ▪ Supervision ▪ Enforcement |
| 3. Exchange trading rules | Market integrity rules and trading practice rules for each marketplace | <ul style="list-style-type: none"> ▪ Rule making ▪ Supervision ▪ Enforcement |
| 4. Market surveillance | Monitoring of trading in each marketplace for compliance with rules | <ul style="list-style-type: none"> ▪ Supervision (market surveillance, trading analysis) ▪ Investigations and enforcement |

Table 2-2: Division of Regulatory Responsibilities in 6 Major Markets

Highlighted boxes show areas where SROs have significant responsibilities.

| | US | Canada | Hong Kong SAR, China |
|-------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Market Regulation | Exchanges are primary regulators of their securities and futures markets. Nasdaq contracts FINRA for most functions. FINRA and NFA regulate some markets by contract. SEC sets high-level anti-fraud rules. Several authorities regulate debt markets. | IIROC independent SRO does market surveillance & sets market conduct rules for all equities markets. The SRO is also the main regulator of debt markets. Commissions set high-level principles. | SFC is primarily responsible for market conduct. HKEx monitors its securities and futures markets for compliance with Exchange trading rules. HKEx lists corporate bonds. |
| Listings | Exchanges (mainly NYSE, Nasdaq & Amex) set listing requirements and approve listing. Set some Listing Rules (ongoing obligations of listed companies). Issuer regulation shared with SEC. | TMX sets listing requirements and approves listing, and also sets many Listing Rules. Issuer regulation is shared with Commissions. | HKEx sets listing requirements and approves listing. Listing applications must be dually filed with SFC for comment. Issuer regulation shared with SFC. HKEx sets many Listing Rules. |
| Issuer Disclosure & Governance | SEC sets disclosure requirements. Exchanges monitor compliance with | Commissions set disclosure and CG standards. SRO monitors | HKEx and SFC share responsibility. Disclosure must be dually filed with |

| | | | |
|-----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| | timely disclosure. CG standards shared. | compliance with timely disclosure. | SFC. |
| Member / Intermediary Regulation | FINRA is primarily responsible for rules and compliance examinations. In futures industry NFA and Exchange SROs share responsibility. | SROs (IIROC and MFDA) are primarily responsible for rules and compliance inspections of members. | SFC is primarily responsible for regulation of securities dealers. |
| Enforcement | SROs for SRO rules. SROs can also enforce members' compliance with securities laws. | SROs for SRO rules. | HKEx for its rules. |
| CSD Regulation | Independent CSD | Independent CSD | HKEx regulates its own clearing houses. |

| | <i>UK</i> | <i>France</i> | <i>Australia*</i> |
|-------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Market Regulation | FSA is mainly responsible for market conduct and surveillance in all markets. Exchanges monitor trading on their markets for compliance with their trading rules. LSE lists all types of bonds. | AMF is mainly responsible market conduct and surveillance. Exchanges monitor trading on their markets for compliance with their trading rules. Euronext acquired 51% of Euro MTS debt trading system in 2005. | ASX sets most market conduct and trading rules for securities and futures markets (ASX merged with SFE in 2006.) Full market surveillance responsibility for ASX rules and for identifying breaches of law. Debt is not traded on ASX and is not a SRO responsibility. |
| Listings | FSA sets listing rules and approves listing. LSE has admission to trading standards. | Euronext sets listing requirements and approves listing. Euronext sets some basic Listing Rules. Issuer regulation is primarily AMF. | ASX sets listing requirements and approves listing. Sets Listing Rules. |
| Issuer Disclosure & Governance | FSA | AMF | ASX shares role with ASIC. ASX sets some rules and monitors compliance with timely disclosure. |
| Member/Intermediary Regulation | FSA has full responsibility. | AMF has full responsibility. | ASX shares role with ASIC. |
| Enforcement | FSA. Exchanges have limited role. | AMF. Exchange has limited role. | ASX for breaches of ASX rules. |
| CSD Regulation | Independent CSD | Independent CSD | ASX subsidiary sets rules. |

* This outlines the Australian model prior to the transfer of market regulation responsibilities from ASX to ASIC in 2010.

Table 2-3: Conflicts of Interest in Self-Regulation

Conflicts between exchange's business and regulation mandates:

- An exchange's business interests and duty to its shareholders to maximize profits may conflict with its duties as a regulator.
- Directors face conflicts in reconciling their duties to shareholders with their public interest responsibilities in overseeing a regulator.
- Regulation of members (or trading participants) produces tensions between business interests and regulation responsibilities.
- Regulation of listed companies produces tensions between business interests and regulation responsibilities.
- Funding of regulation may suffer because of competition for resources between business and regulation needs and because efforts to reduce costs put pressure on non-revenue-producing areas like regulation.

Conflicts in the integrity of self-regulation programs:

- High standards in rules may have a negative effect on attracting trading or listings business.
- Maintaining high standards of supervision may negatively affect business development and relationships with customers.
- Pressure from big customers could result in biased administration of rules.
- Customer pressures could compromise the independence of investigations and enforcement programs.

Table 3-1: IOSCO Standards for SROs

IOSCO Standards for SROs

An SRO should be required to meet this IOSCO list of standards or conditions and must do the following:

- Have the capacity to carry out the purposes of governing laws, regulations, and SRO rules.
- Be able to enforce compliance by its members and associated people with those laws, regulations, and rules.
- Treat all members of the SRO and applicants for membership in a fair and consistent manner.
- Develop rules that are designed to set standards of behavior for its members and to promote investor protection.
- Submit its rules to the regulator for review and/or approval, as the regulator deems appropriate, and ensure that the rules of the SRO are consistent with the public policy directives established by the regulator.
- Cooperate with the regulator and other SROs to investigate and enforce applicable laws and regulations.
- Enforce its own rules, and impose appropriate sanctions for noncompliance.
- Ensure a fair representation of members in selection of its directors and administration of its affairs. *
- Avoid rules that may create uncompetitive situations.
- Avoid using its regulatory role to allow any market participant unfairly to gain advantage in the market.

* Qualified by “where applicable (e.g., a mutual organization)” later in the document.

Source: IOSCO 2008: 32–33.

Table 3-2: Elements of Oversight Programs

| <i>Oversight process</i> | <i>Purpose</i> |
|-------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Corporate governance standards and review | <ul style="list-style-type: none"> ▪ Ensure that an SRO meets high standards of corporate governance. ▪ Ensure that an SRO is responsive to all stakeholders and its public interest mandate. |
| Rule review and approval | <ul style="list-style-type: none"> ▪ Ensure compliance and consistency with the law and conditions of license. ▪ Ensure that SRO rules are consistent with its regulatory mandate and objectives and with securities regulations. ▪ Ensure that SRO rules are fair and balanced, having regard to the interests of all stakeholders. ▪ Ensure SRO rules are consistent with the public interest |
| Monitoring of SRO reports | <ul style="list-style-type: none"> ▪ Maintain awareness of status of SRO programs, activities, and financial condition, as well as current regulatory matters. ▪ Provide ongoing supervision and advice. ▪ Help in coordination of activities with an SRO. |
| SRO self-assessment of its performance and operations | <ul style="list-style-type: none"> ▪ Ensure sound management and governance of the SRO. ▪ Provide input to regulator in developing its targeted examination of an SRO. ▪ Establish how the SRO measures and rates its own performance. ▪ Identify areas of risk and areas for improvement. |
| Examination of an SRO | <ul style="list-style-type: none"> ▪ Provide an independent assessment of the SRO's performance. ▪ Review how well the SRO is meeting its responsibilities. ▪ Review adequacy of the SRO's regulatory programs and resources. ▪ Ensure that conflicts of interest are managed appropriately. ▪ Identify significant risk areas. ▪ Identify findings that require changes or other responses from an SRO. |
| Regular communication | <ul style="list-style-type: none"> ▪ Maintain awareness of the SRO's and regulator's activities, rule proposals, and initiatives. ▪ Ensure consistency in policy and regulatory approach. ▪ Coordinate initiatives and activities. |