

**1.1.4 OSC Staff Notice 11-741, IOSCO Publishes
Draft Consultation Policy and Procedures for
Public Comment**

OSC STAFF NOTICE 11-741

**IOSCO PUBLISHES DRAFT CONSULTATION POLICY
AND PROCEDURES FOR PUBLIC COMMENT**

The International Organization of Securities Commissions (IOSCO)¹ increasingly is recognized as a world leader in setting international standards for securities regulation. Recognizing the potential impact of IOSCO's standard-setting initiatives on capital market participants around the world, IOSCO has published a draft statement of its *Consultation Policy and Procedures* for public comment.

A copy of the draft *Consultation Policy and Procedures* is reproduced in the Bulletin following this Notice and has been posted on the Ontario Securities Commission's website at www.osc.gov.on.ca (International Affairs – Current Consultations) and on IOSCO's website at www.iosco.org (Library – Public Document #175).

The public is invited to submit comments on the *Consultation Policy and Procedures* by January 8, 2005 to mail@oicv.iosco.org. Please include in the subject line of the email "Public Comment on the *IOSCO Consultation Policy and Procedures*". Additional instructions on how to submit comments by email, fax or mail are included in the draft *Consultation Policy and Procedures*.

Please do not submit comments to the Commission.

Questions may be referred to:

Janet Holmes
Manager, International Affairs
Ontario Securities Commission
Tel: (416) 593 8282
Fax: (416) 593 8241
email: jholmes@osc.gov.on.ca

November 12, 2004.

¹ The Ontario Securities Commission is a member of IOSCO's Executive Committee and Technical Committee. More information about IOSCO and the Commission's participation in IOSCO can be found on the Commission's website at www.osc.gov.on.ca (International Affairs -- Who's Who).

The following document is a draft *IOSCO Consultation Policy and Procedures* that is presented for public consultation. Comments should be sent before 8 January 2005 to:

Philippe Richard
IOSCO Secretary General
Oquendo 12
28006 Madrid
SPAIN

Fax: (3491) 555 93 68

e-mail: mail@oicv.iosco.org

For comments sent by e-mail:

- The subject line of your message must indicate "Public Comment on the IOSCO Consultation Policy and Procedures".
- If you attach a document, indicate the software used (e.g., WordPerfect, Microsoft WORD, ASCII text, etc.) to create the attachment.
- DO NOT submit attachments as HTML, PDF, GIF, TIFF, PIF, ZIP, or EXE files.

IOSCO Consultation Policy and Procedures

IOSCO periodically publishes "Consultation Reports" to solicit the views and comments of the securities industry and other interested members of the public. Consultation Reports should be viewed as "draft reports" that do not necessarily reflect the final conclusions or positions of IOSCO or its membership and that will be finalized after IOSCO considers the public comments it receives.

IOSCO encourages the public to submit comments on its Consultation Reports during the comment period.

IOSCO has adopted the following statements of policy and procedure relating to public consultations:

Statement of Consultation Policy

General Objectives

IOSCO will conduct public consultations to achieve the following general objectives:

- To assist in a determination of whether concerns exist which require a regulatory response, and if so, what form of action is appropriate;
- To benefit from the expertise of market intermediaries, exchanges and other market operators, securities clearing and settlement system service providers, endusers and consumers, auditors and auditing companies, and other public authorities, international standard setters, international financial institutions, and regional development banks, when assessing and analyzing regulatory issues;
- To obtain substantive input into IOSCO's work;
- To obtain information and views on the potential impact of any proposed standards and principles;
- To provide opportunities for alternative regulatory approaches to a specific issue to be proposed by the consulted persons;
- To promote industry and public understanding of the role and work of IOSCO;
- To increase transparency regarding IOSCO activities and its work program to enhance the perceived fairness and openness of IOSCO's decision-making process and the visibility and acceptability of its results;
- To enhance consistency, where appropriate, by facilitating an early dialogue: (a) among standard setters (at an international and domestic level) and (b) between the private sector and standard setters, regarding proposed approaches to dealing with common concerns;
- To contribute to the convergence in securities regulatory standards and, where appropriate, in financial regulation generally, by facilitating an early dialogue among standard setters; and
- To assist persons who may be affected by proposed IOSCO standards and principles to modify their activities and/or processes, if necessary, by providing early notice of potential IOSCO standards and principles.

Factors to be Considered in Deciding Whether and How to Seek Public Comment

IOSCO will maintain a flexible approach to public consultations that would depend on the significance of an issue. In determining whether to seek public consultation on its work projects, IOSCO would consider the following factors:

- The scope and applicability of the work project, including whether the work project is targeted to particular users or participants in the markets;
- The extent to which the application of the work project will affect the business practices of regulated entities;
- The extent to which technical or industry-specific information is necessary to the articulation of appropriate conclusions in a report or any associated principles or standards that will be adopted as part of a report;
- The degree to which public comment will otherwise contribute to the fulfillment of the objectives of the work project;

- The practicality of requesting comment;
- The urgency of the need for an IOSCO response;
- The existence of any confidentiality concerns;
- The degree to which a public comment process is likely to enhance public perceptions of fairness and openness of IOSCO's decision-making processes; and
- The likelihood that other international, regional and/or domestic standard setters are considering, or are planning to consider, similar or related issues.

As a general matter, work projects that contemplate the issuance of international standards and principles for the securities sector will include the conduct of a public consultation as part of the project.

In conducting public consultations, IOSCO generally will aim to consult a wide range of interested parties, including, where appropriate, market intermediaries, exchanges and other market operators, securities clearing and settlement system service providers, end-users and investors, auditors and auditing companies, and other public authorities, international standard setters (e.g., the Basel Committee on Banking Supervision, the International Association of Insurance Supervisors, the International Accounting Standards Board and the International Federation of Accountants), international financial institutions, such as the International Monetary Fund and World Bank, and regional development banks. In addition, in particular cases, IOSCO or its members may elicit comment from specific groups, entities or associations that are particularly affected by the issue under consideration through the dissemination of surveys or questionnaires or through IOSCO's standing SRO Consultative Committee.

IOSCO will endeavor to conduct consultations at a sufficiently early stage in the completion of a work project to allow the public adequate time to respond taking into account the complexity of the issues to be considered and the urgency for action by IOSCO.

IOSCO will take comments into account in framing Final Reports and will provide a summary explanation of the manner in which public comments have been addressed or the reasons why they have not been addressed in a Preamble to Final Reports. It will not always be possible to address all comments individually.

Statement of Consultation Procedures

IOSCO has adopted the following consultation procedures in furtherance of its consultation policy:

- All Consultation Reports shall be prominently labeled as such on the title page of the document.
- The deadline for submitting comments, together with background information describing the reasons why consultation is sought, and any specific questions that IOSCO would like the public to address, will be set out in a Preamble to the Consultation Report.
- All Consultation Reports will be published in the Public Documents area of the IOSCO Library on the IOSCO internet website at www.iosco.org.
- Individual IOSCO members also may distribute the Consultation Report and any associated survey or questionnaire within their respective jurisdictions in a manner to be determined by them.
- All comments received on a Consultation Report will be posted in an anonymous format on the IOSCO internet website.
- At the conclusion of the consultation process, IOSCO normally will publish a final report that will be posted in the Public Documents area of the IOSCO Library on the IOSCO internet website at www.iosco.org. All Final Reports shall be prominently labeled as such on the title page of the document. A summary explanation of the manner in which public comments have been addressed or the reasons why they have not been addressed will be set out in a Preamble to Final Reports.

How to Submit Comments

Comments may be submitted by one of four methods. To help us process and review your comments more efficiently, please use only one method.

Important: All comments will be made available to the in an anonymous format to the public. Comments sent via online form or e-mail will be posted on our website. Comments sent via fax or paper will be converted to PDF format and then posted on our website. We do not edit personal identifying information from submissions; submit only information that you wish to make available publicly.

1. Online form

Consultation Reports open for comments have a direct link to an online form that can be used to submit comments. The link is located beneath the caption "Consultation Report" on the title page of the document.

OR

2. E-mail

- Send comments to mail@oicv.iosco.org.
- The subject line of your message must indicate "Public Comment on [name of report]."
- If you attach a document, indicate the software used (e.g., WordPerfect, Microsoft WORD, ASCII text, etc.) to create the attachment.
- DO NOT submit attachments as HTML, PDF, GIF, TIFF, PIF, ZIP, or EXE files.

OR

3. Facsimile Transmission

Send by facsimile transmission using the following fax number: 34 (91) 555 93 68.

OR

4. Paper

Send a copy of your paper comment letter to:

Philippe Richard
IOSCO Secretary General
Oquendo 12
28006 Madrid
Spain

Your comment letter should indicate prominently that it is a "Public Comment on [name of report]."