ASIC

Australian Securities & Investments Commission

Regulatory Response to the Financial Crisis

A presentation by ASIC Chairman Tony D'Aloisio to:

- **Asia Securities Forum in Sydney on Monday 12 October 2009, and**

- **CPA Congress in Sydney on 15 October**

Regulatory Response to the Financial Crisis

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The following presentations were based on these speaking notes:

- **Asia Securities Forum** in Sydney on Monday 12 October 2009
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I am going to talk about the global regulatory agenda which has arisen out of the financial crisis and its implications for Australia.

As all of you know better than most, the global financial crisis (GFC) is already bringing about changes in the international regulatory landscape. The rules of the game are changing and those changes will shape the future of the financial markets (in which we all operate).

Today, I am going to briefly outline the international changes that are underway. Then in order to give you a better understanding of the reform process, I'll provide some insights on the dynamics behind those changes.

But importantly, I am going to go on to talk about whether something more fundamental may need to happen in the approach to reform to ensure that the right balance is struck and maintained between efficiency and investor protection. I am going to argue that the way to maximise our chance of getting this balance right (as we respond to the GFC) is to agree a conceptual framework against which to measure the reforms. Such a framework requires an analysis of the philosophical or economic underpinning of the current regulatory framework, and that this in turn means taking a fresh look at how the market works and our assumptions about market efficiency.

Now you may be thinking that's all fine internationally, but what does that all mean here in Australia? In the final part of my presentation, I will focus more specifically on the implications of these global changes for Australia.

As head of ASIC, understandably my focus is on the securities and investments markets and that will be my main focus today. Regulatory changes from the GFC go beyond securities and investment markets. They cover prudential and risk management practices for the major banks and financial institutions. In Australia, regulation in these areas is primarily a matter for the Reserve Bank of Australia (RBA) and Australian Prudential Regulation Authority (APRA) and Treasury.

GLOBAL REGULATORY CHANGES UNDERWAY

This is a good time to outline what is going on globally, as we had the recent G-20 meeting in Pittsburgh and, last week, major meetings of the International Organization of Securities Commissions (IOSCO) in Basel.

I will start with five specific areas.

Short Selling

The GFC highlighted the potentially destabilising impact of short selling, its potential for misuse and its adverse impact on market confidence. In response, most major economies took steps to mitigate this negative impact on their markets.

IOSCO – the peak international regulatory body, representing some 115 securities and investments regulators – also reviewed the practice of short selling and endorsed four principles for a fair, orderly and efficient market.[1] These deal with operational controls, market disclosure and reporting of short positions, compliance arrangements and exemptions from regulatory requirements.

The member countries of IOSCO – including Australia – are at different stages of implementation, with most still having a way to go.

Australia has placed a ban on naked short selling subject to the market making exceptions. Covered short selling is permitted subject to gross daily reporting. This will be extended to net reporting of positions to the market when the Government's proposed regulations (currently the subject of consultation) come into force[2].

Credit Rating Agencies

Credit ratings play an important role in modern capital markets; protecting the integrity and quality of the rating process is important to market confidence and capital market efficiency.

The GFC highlighted significant issues with the use and quality of credit ratings. In response to these, IOSCO has updated its 2004 Code of Conduct to provide more detail on minimum standards for regulating the activity of credit rating agencies or CRAs.[3]

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[1] IOSCO, *Regulation of Short Selling, Report of the Technical Committee of IOSCO* < http://www.iosco.org/library/pubdocs/pdf/IOSCOPD292.pdf> at 19 June 2009.
[2] The Hon Chris Bowen MP, Short Selling Disclosure Regulations (Press Release, 2 October 2009).
[3] IOSCO, *Code of Conduct Fundamentals for Credit Rating Agencies, Report of the Technical Committee of IOSCO* < http://www.iosco.org/library/pubdocs/pdf/IOSCOPD271.pdf> at May 2008.

In Australia, changes to the regulation of CRAs were announced in November 2008.[4] These included that CRAs will no longer be exempt from holding an AFS licence. ASIC will announce the full details of the new regime next month.

Securitisation

Sustained economic recovery requires credit to start flowing again, and securitisation will play an important role in this. It is generally accepted that regulation needs to be revisited to help this process and restore confidence.

IOSCO has recommended principles intended to realign incentives along the securitisation value chain, enhance disclosure, introduce suitability requirements and introduce measures to address risk management practices.[5]

The IOSCO principles go to such things as 'skin in the game', which means that originators and sponsors retain a long-term economic exposure, and enhanced transparency.

Implementation is in the early stages, although the US Administration and the European Union have both made progress towards originators having ‘skin in the game’.

Credit Default Swaps Markets

The stresses of the GFC highlighted issues with the credit default swaps, or CDS markets – particularly their transparency, the reliability of their price setting and their settlement mechanisms.

IOSCO has agreed high-level principles which are intended to support the development of appropriately regulated structures to clear standardised CDSs.[6]

Assessment and implementation of these principles is still at an early stage. In Australia, the RBA, APRA and ASIC have established a Joint OTC Working Group to progress this activity and examine the over-the-counter or OTC markets more generally.

Hedge Funds

The GFC has contributed to a general loss of confidence in hedge funds – driven in part by concerns about their impact on market stability and market integrity. However, it is generally accepted that hedge funds did not cause the

[4] Senator, the Hon Nick Sherry, *Improved Australian Controls for Credit Rating Agencies and Research Houses* (Press Release, 13 November 2009).
[5] IOSCO, *Unregulated Financial Markets and Products, Report of the Technical Committee of IOSCO* <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD301.pdf> at 4 September 2009.
[6] IOSCO, above n 4.

GFC and that going forward they can play an important role in price discovery and providing market liquidity.

When it comes to reform of hedge funds, the focus has been on revisiting regulation to identify areas for improvement. IOSCO has agreed six principles for the regulation of hedge funds.[7] These are intended to address market stability and the risk of abuse by introducing greater transparency and operational controls over market participants.

The implementation and refinement of these principles by member countries is also at an early stage. In Australia, ASIC is assessing what changes would be required to implement such changes as part of advising Treasury.

Changes in the regulatory landscape still to come

To give a sense of the size of the current agenda, let me go beyond these five specific areas and outline additional work by IOSCO and other international Standard Setters.

IOSCO Standing Committees are working on issues which include enhanced transparency and disclosure; due diligence practices; and measures to improve market intermediary risk management practices[8].

Prudential Changes

The Financial Stability Board, or FSB, has a big agenda covering important issues[9], including:

- strengthening the global capital framework by building stronger buffers into the financial system (including capital, liquidity and provisioning).
- making global liquidity more robust and increasing bank resilience to system wide liquidity shocks.
- reducing moral hazard and strengthening capacity for cross-border resolution.
- strengthening accounting standards (which I will turn to in a minute).
- improving compensation practices, and working to implement standards about compensation aligned to prudent risk taking supported by

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[7] IOSCO, *Hedge Funds Oversight, Report of the Technical Committee of IOSCO* <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD298.pdf > at 22 June 2009.
[8] IOSCO, *Principles for Periodic Disclosure by Listed Entities* <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD298.pdf > at 2 July 2009; IOSCO, *Good Practices in Relation to Investment Managers' Due Diligence when Investing in Structured Financial Instruments* <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD300.pdf > at 29 July 2009.
[9] IOSCO, Financial Stability Board*, Improving Financial Regulation: Report of the Financial Stability Board to G20 Leaders*< http://www.financialstabilityboard.org/publications/r_090925b.pdf> at 25 September 2009.

governance arrangements.

- strengthening the robustness of the OTC derivatives markets, including strengthening capital requirements to reflect risk in OTC markets and incentivising the use of central counterparties.

Accounting and Audit

As you know, the content of Accounting Standards and the way in which they are developed have been key concerns of both the G-20 and the FSB in the last 12 months. These concerns have contributed to the very busy work agenda for Standard Setters [the International Accounting Standards Board (IASB) and the US Financial Accounting Standards Board (FASB)] and other advisory groups (including the Financial Crisis Advisory Group established late last year).

There are 4 key themes running through all of this work.

The **first** theme is around addressing the possible pro-cyclical nature of accounting standards. Standard Setters are looking at this in a number of ways. I want to mention two.

The first is in reviewing approaches to the use of fair value accounting, particularly in illiquid markets, which was thought by some to have exacerbated the impact of the GFC. The second is in reviewing approaches to provisioning and whether they should take into account future losses through the economic cycle.

A threshold issue in this work – and a challenge for accounting Standard Setters – has been to determine whether and how standards should take into account or allow for financial stability considerations. The traditional role of financial accounting standards has been about transparency – to help provide an accurate picture of the financial condition of companies. The impact of how financial information is used (and the possible pro or countercyclical impact) has not been a relevant consideration, with Standard Setters seeing this as being the responsibility of prudential and systemic stability regulators. Much of the tension in the debate we are seeing around IAS 39 (*Financial Instruments: Recognition and Measurement*), for instance, is about how we respond to this challenge.

Formal consultation between Standard Setters and the Basel Committee on Banking Supervision (the international grouping of prudential regulators) will help Standard Setters have regard to financial stability effects. The current review of loan loss provisioning requirements may result in the incurred loss approach being replaced with expected loss models (that is models which take into account possible future losses on existing loans). In the end, it may be as simple as saying that the greatest contribution Standard Setters can make to financial stability is by ensuring transparency.

The **second** theme is about ensuring simpler Accounting Standards. This has been an issue for Standard Setters for a number of years. The GFC has given additional impetus to ensuring standards are expressed in a way which provides uncomplicated guidance on accounting treatment. In short that they are more transparent.

Changes proposed (in consultation stage) by the IASB to IAS 39 to the use and content of fair value accounting are a good example of progress. These proposals say that amortised cost accounting may be used for financial instruments with basic loan features that are managed on a contractual yield basis, with fair value accounting for all other instruments; in effect, there would be just two categories of instruments – rather than the four basic categories that exist at present.

The **third** theme is about working toward global consistency in Accounting Standards. International Financial Reporting Standards (IFRS) has been implemented in more than 113 countries including the EU, Hong Kong and Australia. Two of the world's largest economies, US and Japan, have not implemented IFRS although both have developed road maps for IFRS implementation by 2014 and 2012 respectively. The fact that these significant economies apply standards in different ways, increases the importance of ensuring approaches taken by FASB and the IASB are aligned. The costs to business of different approaches are potentially significant and need to be reduced.

The **fourth and final** theme is about the governance of accounting standard setting processes. This involves two issues.

The first is about the independence of Standard Setters and the work they do from the influence of governments. The argument is that political pressure in the context of imperfect governance arrangements may result in additional risks and costs to industry, particularly where prompt responses are sought. A sound starting point has been the creation of the International Accounting Standards Committee Foundation (IASCF) Monitoring Board (whose members include regulators tasked with enforcing standards) which oversees the work of the IASB, through the IASCF. The Monitoring Board recently reaffirmed the need for accounting standard setters to remain independent of government and political pressures.

The second issue is ensuring that Standard Setters consult broadly and on an ongoing basis with key stakeholders (including prudential and securities regulators) on technical issues. This has recently been addressed by the IASB establishing an enhanced technical dialogue in which prudential regulators, in particular, play a major part.

SOME INSIGHTS INTO THE DYNAMICS OF GLOBAL REGULATORY CHANGE

Hopefully that has given you a feel for the specific reforms under way as well as what is in the pipeline. Let me now share some insights with you into the dynamics behind the changes which hopefully will give you a better understanding of what is unfolding.

The **first** is that the regulatory changes I have outlined have a strong mandate from the various Governments, through the G-20 and the G-20 Finance Ministers. The mandate is to develop the regulatory changes and to implement them quickly.

As the recovery unfolds, some may well question the need for change. We need only to contrast the position 12 months ago, and the mood when Lehman collapsed, with today. The global equity markets have seen a 40% recovery since March this year, and credit has begun to flow again. Nevertheless, there are two reasons why the mandate for regulatory change will continue and will not be left to the markets and this was reinforced by the G-20 communiqué from Pittsburgh.[10]

The first is quite simple: the loss of confidence experienced in September/October 2008 was so significant that Governments needed to spend a lot of taxpayer money. They have no option but to ensure that the possibility of recurrence is minimised and that taxpayer money is repaid.

The second is that regulatory failures played a significant part in the GFC, and need to be dealt with. The five specific examples of regulatory changes which I catalogued earlier illustrate this point, as do the changes proposed by other international bodies such as the FSB.

My **second insight** into the dynamics of change is that the content of the reform agenda is now being taken forward primarily by key international regulatory bodies.

This is an important change to the landscape. We are in the process of a shift of greater responsibility to a number of international institutions, including political bodies like the G-20 Leaders and Finance Ministers; technical bodies like IOSCO; and accounting oversight bodies like the IASCF. This shift in regulatory responsibilities has stopped short of a central regulator. However, there seems to have been a shift of greater responsibility to the FSB and Central Bank Governors. This is premised on the paramount importance of financial stability.

[10] G20, *Leaders Statement, the Pittsburgh Summit* <http://www.g20.org/Documents/pittsburgh_summit_leaders_statement_250909.pdf>at 25 September 2009.

What are the implications of this shift? Well, representation on the international bodies I have mentioned has become a key to influencing the regulatory outcomes. Positions which become available on these bodies will become more hotly contested as jurisdictions seek a 'seat at the table'. Australia is well positioned on these bodies. For example, we have two representatives (RBA and Treasury) on the FSB and extensive participation by APRA.

In the case of IOSCO, ASIC is well represented at every level (e.g. main Technical Committee and each main Standing Committee). In addition, we co-chair the Task Force on Unregulated Financial Markets and Products which is focused on regulation of securitisation and CDS, and we are now Chair of the Joint Forum.

Australia also has members on the IASB, the IASCF, the International Financial Reporting Interpretations Committee (IFRIC) and the International Auditing and Assurance Standards Board (IAASB).

Australia's track record in regulatory reform, with our system being seen as one of the most robust, gives important credibility for our views.

Another observation of the shift to international bodies is that the content of the work of these bodies has moved from technical aspects to policy development. This has implications both for these bodies and for its member countries. These bodies need to develop the research capability to deal with these broader policy issues. For example, IOSCO does not have an office of chief economist as yet. For its members, the shift in policy to these matters raises important issues at home for those Government departments (e.g., Treasury) charged with policy. They need to input internationally and still be able to assess whether or not the changes should be regulated at home. Hence ASIC and Treasury work closely on these issues both internationally and domestically.

Another factor is that there will be important overlap issues of policy which need to be dealt with. For example, how the FSB deals with executive remuneration from a stability point of view may be different to how IOSCO would deal with it for regulatory purposes.

Finally, the focus on a more global approach will lead regulators to increase the level of cooperation between them, to more effectively handle cross-border issues.

So you can see that the move to greater responsibility to these international bodies has a number of implications.

My **third insight** is that as these changes are increasingly driven at an international level, business and consumer organisations will need to reorganise to influence policy.

Traditionally, business and consumer groups have provided input locally on proposals. As more and more of the decisions are taken by international bodies, input will need to be at that level and international capability for these bodies will be important. We saw evidence of this in Basel last week. There was direct consultation with IOSCO by CRAs and international industry groups (e.g. International Banking Federation, Institute of International Finance and so on).

There is also another related development. Regional regulatory bodies with a more united voice are emerging, most notably, CESR in Europe (Committee of European Securities Regulators). These bodies can do the necessary research to impact on the international bodies making decisions. For the broader Asia region, there may be a need for more formalised regulatory groupings (through IOSCO) to focus on the specific issues for the region. Our region is made up of both developing and developed capital markets.

My **fourth and final insight** about the dynamics of change concerns the decision making processes of these bodies, which are driven by consensus and generally at a ‘principle’ or ‘set of principles’ level.

Principles-based decision making is sensible at an international level. It has the advantage of facilitating consensus and leaving detail to each jurisdiction when it comes to implementation. The obvious benefit is that matters can be better adapted to each jurisdiction.

The drawback, however, can be lack of uniformity, which can add to the cost of compliance and open up regulatory arbitrage. For instance, the high-level principles on short selling I spoke about earlier are being regulated differently in the reporting and disclosure regimes.

This raises questions of whether investment decisions will shift, depending on the degree of disclosure that each jurisdiction might have. You can see a situation where fund managers may run some short selling strategies in jurisdictions where they may wish to have more reporting and disclosure time, so as not to alert the market to their tactics.

Different reporting and disclosure can add to the cost of system changes to cope with the different jurisdiction. This, in turn, is reflected in increased costs of doing business.

CRAs is another example. We are seeing a significant difference between the EU and the US as I set out earlier. These differences are creating issues for CRAs wanting to see their ratings used in other countries. For instance, the EU is requiring CRAs from outside Europe to establish the equivalence of their home regulatory before allowing ratings to be used in Europe.

You can see from what I have said that the reform agenda is being driven internationally and with that has come a new mandate (G-20) and increased responsibility of international bodies. Representation and involvement with these bodies is the important way of influencing change and staying abreast of developments.

Let me end this part of my presentation by saying that although the changes will be driven internationally, each jurisdiction has retained the right to enact changes. There is no multilateral agreement which requires each jurisdiction to adopt what has been developed. Nevertheless, there is at least a presumption or expectation that changes will be implemented.

TOWARDS A GLOBAL CONCEPTUAL FRAMEWORK TO ASSESS BALANCE?

I'd now like to move to the issue of balance between market efficiency and investor protection.

It is quite understandable, given the depth of the GFC, that the first global response was to remove toxic assets and stabilise the financial markets. This was followed by different forms of stimuli packages, as the GFC impacted the real economy.

The next priority has been prudential and risk management practices. Hence the agenda of issues being dealt with by the FSB. The immediate problems in the securities and investments markets have lead to the type of changes which I catalogued in the first part of my presentation, such as short selling and regulating the CRAs.

This approach to reform, issue by issue or case by case, will continue. Ordinarily, there's nothing wrong with such an approach. With so many changes and with so many bodies, however, this approach has some risks:

- fragmentation: different bodies are dealing with the same issues, although from different perspectives (e.g. securitisation being dealt with by IOSCO and FSB)

- cumulative impact: potential loss of sight of impact on a cumulative basis of all the reforms from all bodies on the efficiency of markets

- insufficient focus on the future: while fixing past problems is important, what markets will look like in the future and their efficiency will also be important.

These can all translate into inefficiencies in the market and increases in cost of capital.

As I said at the beginning, what may be needed is a conceptual framework against which we can measure whether the reforms achieve the right balance between efficiency and investor protection.

In my view, such a conceptual framework needs to start with an analysis of the philosophical or economic underpinning of the current regulatory framework. The testing of the assumptions on which it is based is likely to point the way to reforms which will achieve better results for the balance between efficiency and investor protection.

I'll outline what I mean in the Australian context. Here, the economic or philosophical underpinning of much of the securities and investments regulations in the Corporations Act is the market efficiency hypothesis. This is the great body of finance and economic thought that emerged after the Second World War. Within this general rubric comes portfolio theory, the Efficiency Markets Hypothesis and the Capital Asset Pricing Model.

These concepts were picked up by the Campbell[11] and Wallis[12] recommendations which formed the basis of much of today's Corporations Act. The nub of their recommendations was a search for lower cost of capital and an increase in the availability of funding sources, which were seen to combine to increase Australia's sustainable economic growth.

The means of achieving such a desired end was deregulation, allowing markets to decide on investments in their own interests, after suitable disclosure. Regulatory intervention was confined to the minimum possible: correcting instances of market failure such as insider trading, and promoting disclosure.

However, because of systemic issues, banks and financial institutions were prudentially regulated. Hence the 'twin peaks' model (ASIC and APRA) which we have today.

The application of this theory was not restricted to Australia. Indeed it formed the basis of the financial markets in the US, the UK and Europe. So the conceptual framework I am talking about can apply internationally. I am only using Australia to illustrate.

The market efficiency hypothesis has a number of assumptions. What the GFC has done has been to call these assumptions into question, or at least re-examination.

Let me illustrate this by using disclosure. The theory recognises the importance of disclosure for investors to assess risk and make their own decisions.

The assumption is that investors (whether institutional or retail) have the tools to understand what disclosure means. We saw at the institutional level that there was widespread disclosure on how CDSs and collateralised debt obligations (CDOs) and CDOs squared worked. Yet that disclosure did not translate into an understanding of the risks associated with those products.

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[11] Australian Financial System Inquiry 1981, *Australian Financial System: Final Report of the Committee of Inquiry into the Australian Financial System*, (Mr J. K. Campbell, Chairman), AGPS, Canberra.
[12] Australian Financial System Inquiry 1997, *Financial System Inquiry: Final Report* (Mr S Wallis, Chairman) AGP, Canberra.

At the retail level, we again saw that disclosure did not necessarily mean investors understood the risks.

What this means is that in assessing regulatory changes, we need to focus not only on the disclosure but what that disclosure means and what the risks are. As we get a better understanding of the limitations around disclosure, we can assess changes such as:

- suitability of product tests at the retail level of the market.
- recognition at the institutional level of the market of the limits of disclosure where complex products are involved.
- acceptance that 'too much disclosure' may also not be the answer and that disclosure has to be meaningful.

Changes such as these, if made, will involve some trade-off in efficiency (e.g. adding to compliance costs) against investor protection. However, this trade-off will need to be better understood and the changes viewed in the context of the continued evolution of the market efficiency hypothesis.

There are a number of other assumptions in the market efficiency hypothesis that need to be tested. Let me look at three of them to illustrate why a conceptual framework is important.

First, the market efficiency hypothesis assumes market rationality. Yet, what we have seen is market irrationality, irrational exuberance and a herd mentality involving higher and higher leverage to push up asset prices with a disregard for risk/reward premiums.

One of the key things to promote market rationality is the existence of independent intermediaries such as the rating agencies and auditors, accountants, asset managers and analysts. This independence is important in enabling markets to assess risks.

What we continually need to test, however, is that we have the frameworks around the intermediaries, so that they are and remain independent and can offer independent views (even if those views go against the prevailing thought).

During the GFC, we have been focusing on CRAs and questioning how they did not see the problems with subprime. In the early 2000s, internationally we questioned auditors (which led to significant developments in the auditor independence we have today), and in the mid-90s, the role of investment banks and research analysts (which led to better conflict of interest management).

What is becoming clearer is that for the efficient markets hypothesis to work, the independence of intermediaries (or the gatekeepers) may be more important than we thought.

Secondly, there is the assumption of the market efficiency hypothesis that problems can be contained within countries. This may understate the global interconnections of capital.

An example here is the US subprime. The total market was some US$7.5 trillion. US$2.5 trillion of this was held offshore. This has problems for risk assessment and analysis of exposures. It also means that when jurisdictions introduce solutions, they may need to assess more completely what will happen to those foreign holdings.

Thirdly, the market efficiency hypothesis assumes that financial innovation will lead to efficiency. This may fail to allow for the risks of complexity and the lack of transparency which can come with innovation.

Consider the derivatives markets. These are instruments to lay off risk and so on. Yet the complexity of these instruments was such that the interconnection between the banks and financial institutions was not seen or understood.

The need for standardisation of these instruments, and to couple them with central counterparties, is now seen as an important change which will be needed. These changes may add to cost, yet they will have benefits for the markets.

I recognise that my analysis of the assumptions of the market efficiency hypothesis is not perfect. Nevertheless, I believe that a conceptual framework that tests the economic underpinning of the current regulatory regime, and that is clear on what the benefits of the changes will be, might have a better long-term result than the continued case by case approach to reform. It should provide a greater opportunity to maintain the balance between efficiency and investor protection.

As an initial step in this direction, ASIC has set up a small, informal group of IOSCO member countries to explore the conceptual framework idea and how we can make use of it in relation to the unfolding global regulatory agenda.

IMPLICATIONS FOR AUSTRALIA

I have so far been talking about the global regulatory landscape.

Let me now return to the question and final part of my presentation, what all this means for Australia. It is generally accepted that Australia's regulatory system has fared better and as I have said on other occasions, that has been due to many factors – sound policies of successive governments, the structure of our regulatory regime and the work of bodies such as RBA, APRA, ACCC and Treasury to name just a few.

So, are these international regulatory changes relevant to Australia? Yes, of course they are. First, Australia is part of the global financial markets and regulatory changes in these markets can impact the flow of capital and investments between Australia and other countries. Secondly, the adverse impacts from unregulated or badly regulated activities in these markets can impact Australia. While it has been limited, we have seen evidence of that in the GFC with short selling and in distribution of CDOs.

The fact that the Australian regulatory system has been more robust, has enabled Australia to take a more measured response to these developments involving:

- participation and input at an international level and the sound system which we have, has given us credentials and a 'seat at the table'. For example, Australia's twin peaks policy is seen as a model for other jurisdictions to move to. This participation enables us to influence outcomes which could otherwise impact financial markets. Certainly if international reforms proceed within the conceptual framework I spoke about, potential adverse impacts would be further minimised.

- measured and careful assessment by Government to the changes which have emerged and will emerge from this international activity. We have seen, for example, in Australia changes to short selling and CRAs. Other changes, as they emerge, I would expect would also be carefully assessed and reviewed by Treasury and Government and decisions made.

- this measured approach has also had regard to the impact of changes on the balance between efficiency and investor protection. Certainly ASIC in its submission to the Parliamentary Joint Committee on Corporations and Financial Services (PJC), for example, has stressed the need to continually reassess that we have the balance right.

This approach of participation at an international level and measured response at home may well continue for some time. Although it is a policy matter for Government, there does not seem to be the same pressing need for wholesale reform in Australia as may be the case in other countries.

The GFC has also thrown up some domestic regulatory issues (in the sense of not being directly related to the global changes I have mentioned) which relate to areas, for example, such as margin lending. We also have Inquiries by the PJC on the financial advice industry and managed investment schemes. These are specific areas and (although policy matters for Government) are not likely to carry with them a need for wholesale reform.

Conclusion

As you have seen, there is a long list of international regulatory changes in the pipeline, many of which are still in the early stages of development.

Changing dynamics are driving these changes – the political agenda through the G-20 and the growth in the responsibility of the international bodies. These developments require adjustments at home in the way we participate and respond to the changes.

At this point, global reforms are emerging issue by issue or case by case. This carries the risk that we could end up with too much regulation or less efficiency.

As the debate unfolds, we will need to move towards a conceptual framework that reassesses the market efficiency hypothesis and ensures that reforms achieve the right balance between efficiency and investor protection.

Australia, as I have said, has fared better in the GFC and this has been due, among other things, to its more robust regulatory system. This has enabled and should continue to enable us to respond in a measured way to the reforms which are unfolding.

Thank you.

