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BANK FOR INTERNATIONAL SETTLEMENTS: COMMITTEE ON BANKING
REGULATIONS AND SUPERVISORY PRACTICES' CONSULTATIVE PAPER ON
INTERNATIONAL CONVERGENCE OF CAPITAL MEASUREMENT
AND CAPITAL STANDARDS*

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Introductory Note
by
Cynthia C. Lichtenstein

In December, 1987, what was then named officially the Committee on Banking Regulations and Supervisory Practices¹ of the G-10 group of central bank representatives² of ten major industrialized countries and Switzerland (with the Bank for International Settlements providing the Secretariat) released its Consultative Paper on Proposals for International Convergence of Capital Measurement and Capital Standards, published in 27 I.L.M. 527 (1988) with an Introductory Note at 524 by Cynthia C. Lichtenstein discussing the background to and predecessors of the Proposals. The Basle Committee asked its members to gather within six months the comments of their respective national institutions to be affected by national implementation of the proposals and report back to the group. Despite considerable adverse comments from the affected banks for whom the agreed upon minimum standard ratio of capital to risk-weighted on and off-balance-sheet assets (8%) would be costly, the G-10 supervisors stuck to their guns. In July, 1988, a final version of the proposals was released, under the title of Consultative Paper on International Convergence of Capital Measurement and Capital Standards. Since it was and is the intention of the national authorities meeting in Basle to utilize this document, in accordance with its highly detailed terms, as a fixed basis for promulgating national law or regulation (the Paper indicates in a number of places just where there is room for national discretion), and since the "Paper" has been formally endorsed by the G-10 central bank governors,³ these mutually agreed upon minimum standards of capital adequacy for banks doing an international business (as defined in the Paper) are always referred to (in the U.S. literature) as the "Basle Accord."

The Accord has been extensively described and commented on in the literature,⁴ but more importantly, it has been implemented into national law and/or regulation by not only the

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[Proposals by the Basle Committee on Banking Supervision for the inclusion of general provisions/general loan-loss reserves in capital appear in a Consultative Paper at 30 I.L.M. 1009 (1991). The Report on capital adequacy for securities firms, by the Technical Committee of the International Organization of Securities Commissions, appears at 30 I.L.M. 1018 (1991).]

eleven countries whose representatives participated in negotiating the standards, but by almost all countries with banks engaged in international business.⁵ In the United States, where there are three federal supervisors for commercial banks, depending on the scheme of regulation the particular bank falls into, the risk-based capital adequacy guidelines (as the implementation of the Basle Accord in the U.S. is called) were published, for the Board of Governors of the Federal Reserve System (the regulator for state member banks and bank holding companies) on January 27, 1989, 54 Fed. Reg. 4186, codified to 12 C.F.R. §208 for state member banks and 12 C.F.R. §225 for bank holding companies,⁶ for the Office of the Comptroller of the Currency, supervisor of national banks, 54 Fed. Reg. 4168, codified to 12 C.F.R. §3 and for the Federal Deposit Insurance Corporation, supervisor of non-member state banks, 54 Fed. Reg. 1500, codified to 12 C.F.R. 325.⁷

The universality of the imposition on international banks by national regulators of the Basle risk-based capital adequacy rules was greatly aided by the promulgation by the European Community of its minimum capital adequacy standards for credit institutions (as entities having charters granting them the right to take demand deposits are called in Europe). The Community, as part of the so-called "1992" creation of a single market, has had to enact basic minimum standards of regulation which all Member States are required to enact into national law in order to allow their institutions to benefit from mutual recognition by the other Member States.⁸ The Community, through the Contact Group of the EC national bank supervisors and its own Banking Advisory Committee, keeps in close touch with the Basle Committee,⁹ and in considering the Commission's proposals for capital adequacy rules for EC credit institutions, the European Parliament suggested the greatest possible harmonization with the Basle Accord. Since seven¹⁰ of the twelve EC Member States are members of the G-10, the EC Directives have turned the "soft law"¹¹ obligation of the Basle Accord (applicable to those seven) to enact national regulation according to the Accord into the positive obligation of the Rome Treaty (applicable to all Member States) to adopt the necessary national measures to comply with the Directives.¹²

When issued, the Basle Accord did not resolve the thorny question¹³ of just what "reserves" or "provisions" set aside by banking institutions as a deduction from their balance sheet recordations of their lending could be counted as an item making up required capital, but instead put a separate limit on the inclusion of such items under national regulatory schemes until the Basle Committee could subsequently "clarify the distinction made in member countries between those elements which should conceptually be regarded as part of capital and those which should not qualify." See paragraphs 18-21 of the Basle Accord. The Basle Committee on February 21, 1991 released the result of its work since 1988 on this issue in the form of the reprinted "Consultative paper on Proposals for the inclusion of general provisions/general loan-loss reserves in capital," together with the proposed replacement for paragraphs 18-21 of the Accord. The Paper is currently circulating¹⁴ among the Supervisors of the G-10 for review and consultation and the

Committee anticipates that the final agreed-upon language will be incorporated into the Basle Accord before the end of the year.¹⁵ The BIS' Press Release accompanying the Paper (Press Statement by the Basle Committee on Banking Supervision) states in its para. 3 that "[I]t is intended that the proposals, once finalized, be fully implemented as soon as possible, and at the latest by the end of 1993; meanwhile the existing arrangements described in the 1988 paper will continue to apply." So far as the U.S. authorities are concerned, their joint statement announcing the release of the Paper states: "The U.S. banking agencies regard the proposals as useful and consistent with the risk-based capital guidelines previously adopted by the U.S. agencies in 1989. The enclosed Paper is being circulated in the United States for information."¹⁶

Although the process has not usually resulted in documents such as the "Proposals for the inclusion of general loan-loss reserves in the definition of capital",¹⁷ easily reprintable in I.L.M., it should be recognized that the process of holding the line on Basle harmonized risk-based capital adequacy requirements is an on-going one. Any system of harmonization that relies upon national implementation of internationally agreed upon standards needs a process for insuring that, over time and under the pressure of market forces and the understandable desire of national regulators to give "their" institutions a competitive edge, national implementation does not deviate substantially from the norm. As drafted, the Accord provides specifically for instances where there is agreed upon national discretion, and national authorities are specifically authorized to impose higher standards on their own banks, but there is no formal mechanism for challenging deviation. In the European Community, the Commission specifically has standing to evaluate and challenge national deviation from the Commission's interpretation of what is meant by Directive mandates, and the European Court of Justice ultimately must resolve any disputes.

The Basle Supervisors' Committee has no such legally recognized mechanisms; the meetings at Basle of the G-10 finance ministers or their central bank governors are held because they are held: everyone comes together because they choose to do so and not because they have imposed upon themselves a treaty obligation to coordinate banking supervision or policy. Nevertheless, the purpose of the convergence exercise of the Basle Accord is not only to increase the soundness of the system, but also to insure that there should not be a "competition in laxity" among regulators.¹⁸ If the Basle supervisors did not have any way for calling one another to account for yielding to industry pressure, the exercise would lose much of its point.¹⁹ What appears to happen is that the Committee meets regularly in Basle and in addition to working on capital adequacy issues not covered in the Accord,²⁰ such as interest rate risk and, as described below, securities business position risk, the group seems to review national interpretations of the rules in the Accord and to attempt to reach a consensus on the jurisprudence of the rules.²¹ One imagines that considerable peer pressure is applied to any regulator refusing to go along with the consensus.²²

The story, however, of international convergence of capital adequacy requirements is hardly finished with discussion of the Basle Accord. As noted (n.20), the Basle Accord addresses only credit risk.²³ Yet, outside the territorial jurisdiction of Japan and the United States, commercial banks (and, indeed, Japanese and U.S. banking organizations in their foreign business) include both wholesale and retail securities business in their repertoire and the largest banking organizations compete in the global capital markets with the multinational investment banks or "investment services firms" as they are called in the European Community.²⁴ Whether the dealers in the international capital markets are organized with commercial bank charters or are chartered as firms doing a securities business, they incur in their underwriting and dealing business what is known as "position risk", or "market risk", the risk that the value of their portfolio of securities (whether on trading books or otherwise) will be adversely affected by downward fluctuations of the market.²⁵ Securities firms in most jurisdictions are under the supervision of their home country securities supervisors (such as the United States' Securities and Exchange Commission (SEC) or the United Kingdom's Securities and Investments Board (SIB)) under a variety of national schemes of securities regulation. Among these supervisors, a number (for instance, the U.S., the U.K., France and Japan) have capital adequacy requirements²⁶ for the broker-dealers they supervise. Note that the securities supervisors do not supervise banks that do a securities business,²⁷ so the capital adequacy requirements that have been worked out by securities supervisors for their charges are not applied to the securities business of the banks, the direct competitors in the international capital markets of the securities firms.²⁸

Whatever the outlook for convergence between the capital rules applying to banks in the securities markets and those applying to securities firms (see n.28), the securities supervisors, deliberately modeling themselves on the Basle Committee, have been working on convergence of the capital adequacy requirements for multinational securities firms. Just as the banking supervisors²⁹ meet to discuss common problems, so the securities supervisors have been gathering annually, first in 1975 as the Inter American Conference of Securities Commissions and Similar Organizations, and then since 1984 as IOSCO, the International Organization of Securities Commissions which held its XV Annual Conference in Santiago, Chile in November, 1990. IOSCO now has 65 securities regulating bodies comprising its membership.³⁰

Like the Conference of Banking Supervisors, IOSCO did not at first purport to be other than an information exchange and forum for cooperation, with, because of its inter-american origins, a particular focus on market development. However, with the growth in cross-border securities activities, national regulators have recognized the possibilities for regulatory arbitrage by multinational firms with the consequent risks to the stability of the international financial system. The market players as well have recognized the need for harmonization in

securities regulation to avoid the transaction costs of compliance with various, and often conflicting, systems of regulation. As a result, the IOSCO Executive Committee in May, 1987 created a Technical Committee, served by IOSCO's Secretariat in Montreal, to study critical issues affecting countries with developed securities markets.

Since July, 1987, the Technical Committee has met twice a year, with its work achieved by a number of Working Groups that present reports on the fruits of their labors in developing common regulatory standards in their particular specialized areas.³¹ Working Group No. 3, one of the original six created at the first meeting of the Technical Committee in July, 1987,³² was set up to study the issues related to capital adequacy for securities firms "from a world-wide perspective".³³

Working Group No. 3's members were originally the UK's International Stock Exchange, a self-regulatory organization, the French Commission des Operations de Bourse, the Japanese Ministry of Finance, the SIB and the SEC, although in the interest of working on the "problems of aligning the capital requirements applicable to non-bank securities with those which are applied to banks", the Working Group has been enlarged to include representatives of Germany, Holland, Sweden and Switzerland, "all countries in which banks play a significant role in the securities markets."³⁴ The Group's conclusions were presented to the Technical Committee at its meeting in Montreal, Canada on June 20-21, 1989 and the Report (reprinted here) was adopted by the Technical Committee and presented to the 14th Annual Conference of IOSCO in Venice, Italy in September, 1989.

The Report, according to the Working Group's Chairman, Jeffrey Knight, contains "an analysis at the conceptual level of the approach of the securities regulator towards setting capital requirements".³⁵ Since completion of the Report, the Group has developed the analysis of the components a firm's regulatory capital should contain at a more detailed level. The Group's report to the Santiago Conference in November, 1990 consisted of four Reports (the two mentioned in n. 26, "The Base Requirement and the Minimum Requirements for Capital" and "Definition of Capital", October 22, 1990).³⁶ The next meeting thereafter of the Technical Committee was in March, 1991 in Hong Kong, where it was hoped that the Basle Committee and Working Group No. 3 could work out a framework for a common approach for capital requirements for position risk on the basis of their respective prior work,³⁷ but so far as is known, no resolution of the differences between the Basle Committee and Working Group No. 3 was reached and Group 3 would seem to have temporarily halted its work. The Technical Committee has met in Paris, July 16-17, 1991 and when and if that meeting is reported on, we shall know whether convergence of capital adequacy standards for multinational securities firms may have been halted for the moment by the difficulties of achieving convergence for competing participants in the markets or whether the securities regulators have achieved a consensus on capital requirements for securities firms that can be presented to the 16th Conference of IOSCO to be held in Washington, D.C. in September, 1991.

NOTES

1. The Committee, established in 1975, has been variously referred to in the literature as the Basle Committee, the Basle Supervisors' Committee and the Cooke Committee, after its second chairman. For its early history by a participant in its meetings, see Dahl, Introductory Note to the Basle Concordat, 22 I.L.M. 900 (1983) and a description of the earlier work of the Committee in the field of capital adequacy, Lichtenstein, Introductory Note, 25 I.L.M. 978-981 (1986). For an extensive description of the Committee's work up through the end of 1988 (based on the author's fortunate access to the Committee's unpublished Reports), see Norton, Capital Adequacy Standards: A Legitimate Regulatory Concern for Prudential Supervision of Banking Activities?, 49 Ohio State L.J. 1299 (1989) at 1336-1348. The Committee has now changed its name to the "Basle Committee on Banking Supervision" and is chaired, as of July, 1991, by E. Gerald Corrigan, President of the Federal Reserve Bank of New York.
2. See Norton, op. cit. n.1 at 1301 for a list of the institutions represented on the Basle Committee.
3. See the discussion of the Paper in Fed Staff Summary and Recommendations on Risk-Based Capital Plan [July-Dec.] Banking Rep (BNA) No. 6, at 232 (Aug. 8, 1988).
4. See, e.g., Norton, The Work of the Basle Supervisors Committee on Bank Capital Adequacy and the July 1988 Report on "International Convergence of Capital Measurement and Capital Standards", 23 Int'l Law. 245 (1989); Cooke, International Convergence of Capital Adequacy Measurement and Standards, in Festschrift for Jack Revell, Institute for European Finance, 1990; and, particularly, because the author is Secretary of the Basle Committee and comments upon the reasons for the particular style of the Paper, Hayward, Prospects for International Cooperation by Bank Supervisors, 24 Int'l Law. 787 (1990).
5. Opening Session Address to the XV Annual Conference of the International Organization of Securities Commissions, Santiago, Chile, by H.J. Müller, Chairman of the Committee on Banking Regulation and Supervisory Practices of the Bank for International Settlement, November 17, 1990 at p. 4.
6. It should be noted that G-10 central banks only agreed (to the extent that the Accord may be called an "agreement" - how it would be characterized in international law is uncertain - see Norton, supra n. 1, at 1347, n. 249) to apply the harmonized standards to banks doing an international business. The U.S. regulators, including, under the Congressional mandate of FIRREA, the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the reorganized thrift regulator, the Office of Thrift Supervision, have chosen to apply the Basle standards, as interpreted by the U.S. regulators and as supplemented by

additional mandatory leverage ratios, to all commercial banks, thrifts and bank holding companies. (For a report by Fed on differences in capital and accounting standards among the Federal banking and thrift agencies, see 55 Fed. Reg. 39060 et seq., Monday, Sept. 24, 1990.) What securities issued by the holding company count as the required capital is, however, eased in the case of the holding companies. To date, as far as the author is aware, the U.S. is the only jurisdiction applying the Basle standards to companies owning banks subject to the rules, although, in a very important case, Judgement of the Swiss Federal Supreme Court, Second Public Law Division, 11th December 1990, in the matter of Credit Suisse, Zurich, against the Federal Banking Commission concerning own funds requirements for Credit Suisse, the Swiss Federal Court upheld the Swiss Federal Banking Commission in applying the capital rules to the parent company owning both Credit Suisse and Credit Suisse First Boston, the securities firm.

7. For a description of the U.S. commercial bank and bank holding company requirements, including a diagram of the risk based capital fraction and a chart summary of the risk weights and risk categories under the U.S. implementation, see Puleo, Balance Sheet Restructuring/Capital Adequacy in Puleo and Smith, Co-Chairmen, PLI Institute of Banking Law and Regulation 1989 at 459. For the history of the U.S. regulators' approach to risk-based capital adequacy standards, see Lichtenstein, Recent Developments in Prudential Controls on U.S. Banks' International Activities, Chap. 33 in Norton, ed., SMU Institute in International Finance, Prospects for International Lendings and Reschedulings (Matthew Bender 1988).
8. For the background to EC legislation in the banking field, see Lichtenstein and Sands, "Europe and Banking 1992", Chap. V in Executive Enterprises Publications Co, Inc., pub., Tomorrow's Banks: Developments Shaping the 1990's (1989). In EC legislation, the risk based capital adequacy rules are divided into two separate Directives, the Directive defining what constitutes capital for the purposes of the capital adequacy fraction or ratio, Own Funds Directive, 89/299/EEC, OJ No L 124, 5.5. 1989 and the Solvency Ratio Directive, 89/647/EEC, OJ No L 386, 30.12.1989. Implementing national legislation tends to follow the structure of the Directives so that for the twelve member states of the EC, the risk-based capital adequacy rules are found in legislation - or regulation - or, as in the U.K. which has its own particular system of bank supervision, a Notice to Institutions Authorized Under the Banking Act 1987 - providing separately for a definition of what balance sheet items will count as capital ("Own Funds") and the Solvency Ratio, the amount of Own Funds to be held against each on and off-balance sheet transaction whose credit risk must be provided for under the Accord and the EC Solvency Ratio Directive.
9. See Norton, op. cit. n. 1 at 1339.

10. Belgium, France, Germany, Italy, Luxembourg, Netherlands and United Kingdom.
11. See Norton, op. cit. n. 1 at 1347 and n. 249.
12. As an example of national implementation of the EC Solvency Ratio Directive, see the Bank of England Banking Supervision Division, "Implementation in the United Kingdom of the Solvency Ratio Directive", BSD/1990/3, December 1990. The Bank of England had previously implemented what it calls the Basle Convergence Agreement [the Basle Accord] by BSD/1988/3, issued in October 1988.
13. See Lichtenstein, Latin American Debt Writeoffs Could Erode Bank Capital, Banking Law Review 60 (Summer 1988) for just why this is a thorny question.
14. See, as an example of how the U.S. regulators now circulate the Basle Committee proposals, Circular No. 10441, March 21, 1991 of the Federal Reserve Bank of New York addressed to all State Member Banks, Bank Holding Companies and Branches and Agencies of Foreign Banks in the Second Federal Reserve District and enclosing the Basle Committee Paper. The fact that N.Y. Fed circulates Basle papers to Branches and Agencies of Foreign Banks in the Second Federal Reserve District is very interesting. Branches (other than so-called "Federal" branches, a method of entry chosen by very few foreign banks) of foreign banks in the U.S. are not presently required by federal law to have specially allocated capital (although N.Y. banking law has asset requirements), a difficult concept since a branch is part of the foreign chartered entity which presumably is subject to the foreign chartering jurisdiction's implementation of the Basle Accord. The one thing that the Basle Accord says nothing about is how host country regulators shall supervise capital adequacy requirements with respect to foreign banks entering the jurisdiction by branching. Traditionally Fed, as a condition of approval of the entrance by foreign banks present in the U.S. into nonbanking business in the U.S. (where Fed has jurisdiction under the Bank Holding Company Act as amended by the International Banking Act of 1978), has attempted to ensure that the foreign institution's capital is genuinely comparable to the capital required to be held by its U.S. bank competitors. It is said (by Peter Cooke in an interview with the author) that one of the impetus' for the Basle Accord was the difficulty experienced by the then Chairman of the Fed, Paul Volcker, in making such capital holdings comparisons, given the then lack of a common definition of "capital".
15. See the N.Y. Fed Circular, op. cit. n. 14.
16. Id. Scholars interested in international legal process and the question of whether national authorities will, in fact, carry out such a harmonized "agreement" as the Accord might wish to examine both the Paper and the U.S. 1989 guidelines to see if in fact the U.S. authorities have excluded from

their measure of capital those provisions which the Committee now says are to be excluded.

17. The proposed amending language of the Accord attached to the Proposals is a distinct innovation, albeit one that was agreed on upon in the Accord itself; this is the first instance of a proposed amendment to the Accord itself.
18. See the Introductory Note at 27 I.L.M. 524 (1985) for a fuller explication of this idea.
19. Hayward, op. cit. n. 4, makes this point very well.
20. As is evident from the text of the Accord, the harmonized standards cover only credit risk and do not address, for instance, the interest rate risk inherent in a bank's portfolio of debt securities. The U.S.'s thrift regulator, the Office of Thrift Supervision, is plunging ahead in this area and its work may presage international convergence in this risk area as well. For a critique of the OTS' initiative, see Peet and Lustgarten, "Banks' Future Evident in Capital Rules for S&Ls", Am. Banker, Tuesday, March 26, 1991. See also n.23, below.
21. The assumption as to process is made from a Fed release, SR 90-23 (FIS), dated July 3, 1990, addressed to the Officer in charge of supervision at each Federal Reserve Bank, and enclosing a "Federal Reserve Staff Memorandum on Questions and Interpretations Relating to the Implementation of the Risk-Based Capital Framework." The Associate Director of Supervision's letter states: "Over the last several months, the Federal Reserve Staff has participated in discussions among countries that have adopted the Basle risk-based capital framework. The purpose of these ongoing discussions is to review questions relating to the implementation of the Accord and to facilitate a broadly consistent approach to implementation of the framework internationally." The letter goes on to say about the enclosed memorandum: "The memorandum also describes the consensus that has been reached by supervisors from the G-10 countries on these issues. The guidance contained in the memorandum is intended to clarify how the Accord is to be implemented; it does not amend the framework or alter its basic structure."
22. See the story from the Financial Times of June 1, 1989, p. 2, reprinted as Document 2 to Puleo, op. cit. n. 7, stating that the Bank of England had "closed the door" on a certain type of floating rate note issues counting as capital under the rules "after consultations with bank regulators from other countries" even though the Bank had already approved such an issue for the Royal Bank of Scotland.
23. However, the regulators meeting at Basle have been fully aware of the limited coverage of the Basle Accord; indeed, national discretion is given in risk-weighting of OECD country government securities to increase the risk weighting

from 0 to 10% as a rough surrogate for the interest rate risk on bank portfolios of the instruments. Moreover, the closure in the first week of July of the multinational banking firm of Bank of Credit and Commerce International's bank subsidiaries in a number of countries for fraud, allegedly undertaken to cover up huge speculative losses in its governments portfolio, has given the Basle group an impetus to refine its rules to include the risk of loss from market risks in foreign exchange and debt and equity securities. See "Collapse Lends Urgency To Push for Bank Rules", New York Times, July 9, 1991, pp. D1 and D6, cols. 6 and 1-2.

24. "In the world's major [financial] centres there are legal barriers separating banking and securities business now only in the United States and Japan." Müller, op. cit. n. 5.
25. This is not to say that holders of securities do not incur credit risk as well, that is, the risk that the issuer of the securities, if debt, will not pay or, if equity, will fail or be reorganized so as to wipe out the equity.
26. For a comparison of the four countries' securities regulators' equity and debt position risk requirements, see two of the four reports prepared by IOSCO's [explained in the text at n. 30] Technical Committee's Working Group No. 3, "Comparison of Equity Position Risk Requirements and Scope for Harmonization," June, 1990, and "Comparison of Position Risk Requirements for Debt Securities", June, 1990, included as part of the Report of the Technical Committee of IOSCO on Capital Requirements for Multinational Securities Firms presented to the XV Annual Conference of the International Organization of Securities Commissions (IOSCO), Santiago, Chile, November 13, 1990, and available from the Secretariat of IOSCO, C.P. 171, 800 Square Victoria, Suite 4510, Montreal, Quebec H4Z 1C8 Canada.
27. For preliminary discussion (as of 1988) of how the jurisdictional problem has been worked out in the United Kingdom between the Bank of England and the SIB, as well as background to the work of IOSCO's Technical Committee in the field of capital adequacy, see Lichtenstein, Remarks, in the Panel on The Internationalization of the Securities Markets, Proceedings of the 82d Annual Meeting of the American Society of International Law (1988), pp. 305-309.
28. For a description by a Federal Reserve Bank economist of the differences in approach to capital adequacy requirements for securities firms and commercial banks, see Haberman, "Capital Requirements of Commercial and Investment Banks: Contrasts in Regulation", Federal Reserve Bank of New York Quarterly Review, Autumn, 1987, pp. 1-10. However, Haberman wrote his piece (emphasizing "contrasts") on the basis of the very separate development of U.S. regulation of broker-dealers under U.S. securities laws and U.S. commercial bank regulation under U.S. banking laws without any experience of regulation of the securities business of banks. Since 1987, both the international bank regulators and the international

organization of securities regulators have concerned themselves with the possibilities for harmonization of capital requirements so as to insure that both sets of competitors in the national and international capital markets have a joint "level playing field" on which to play. Thus H.J. Müller, the third Chairman of the Basle Committee, stated in his Opening Session Address to the XV Annual Meeting of IOSCO, cited above n. 5: "We [the Basle Committee] are now working on the treatment of market risks, which include the risks on positions held by banks in debt and equity securities. If we are to reach agreement on a set of minimum standards for this work, it is clear to the Basle Committee that such agreement will need to involve some forms of understanding with the regulators of competing non-bank firm [sic]." See also the Remarks by Jeffrey Knight, Chairman, Working Party No. 3, introducing the Report of the Technical Committee of IOSCO on Capital Requirements for Multinational Securities Firms, *supra* n. 26, at pp. 6-7. However, the understanding among the different types of regulators may be hard to reach. The difficulties of reconciling the approach of the securities regulators to their charges and how the banking regulators treat the securities trading books of so-called "universal" banks has apparently delayed the promulgation by the EC of its proposed Capital Adequacy Directive, the analogue for the EC's Investment Services Directive, Proposal for a Council Directive on investment services in the securities field, Com (88) 778, O.J. 22.2.89 C 43/7, of the Solvency Ratio Directive for the Second Banking Directive. See Waters, "The quest for a capital adequacy directive", *Financial Times*, April 5, 1991, p. 21. See also Parlour, *Capital Adequacy Developments Internationally and in the European Community: A Tale of Two Systems*, [1990] 6 JIBL.

29. In September, 1990, the sixth International Conference of Banking Supervisors was hosted in Frankfurt by the German supervisory authorities and over one hundred countries were represented. Müller, *op. cit.* n. 5 at 2.
30. The 16th Conference will be hosted by the U.S.' Securities and Exchange Commission and will be held in Washington, D.C. in September, 1991.
31. At the IOSCO Santiago meeting, the Technical Committee was reorganized into four core working groups (regulation of secondary markets; regulation of market intermediaries, including capital adequacy; enforcement and exchange of information; multilateral disclosure and accounting standards) that are expected to report at the next meeting of the Technical Committee July 16-17 in Paris. See 4 Int'l Sec. Reg. Rep. No. 8, p. 3 (March 25, 1991).
32. See Lichtenstein, *op. cit.* n. 27.
33. *Capital Adequacy Standards for Securities Firms*, August 10, 1989, p. 1.