



IOSCO Final Report on conflicts of interest and associated conduct risks during the equity capital raising process. February 2019.

In August 2017, the IOSCO Board approved a mandate for Committee 3 on the Regulation of Market Intermediaries (C3) to examine conflicts of interest and associated conduct risks in the capital raising process. The work to be undertaken under the mandate is divided into two stages. The first stage focuses on the equity capital raising process, which led to the document published by IOSCO in September 2018 and which forms the subject matter of this article. The second stage will consider conflicts of interest and associated conduct risks during the debt capital raising process.

The effectiveness of capital markets, which play a vital role in the global economy, largely depends on high standards of conduct within financial intermediaries. During the capital raising process, intermediaries may sometimes encounter conflicts of interest which, if not appropriately managed, might compromise the integrity and efficiency of the process. This might lead to capital markets being perceived as a less effective route for raising finance in comparison with the alternatives.

This mandate to Committee 3 is a recognition that in some countries, notwithstanding existing IOSCO guidance and existing rules, poor conduct and practices may still exist, potentially impairing the integrity and efficiency of capital markets.

IOSCO performed a survey of the members of said Committee with the aim of identifying the conflicts of interest and associated conduct risks in the equity capital raising process (the debt capital raising process is not included here).

The following risks are identified in the survey:

- Conflicts of interest and pressures on “connected analysts” (those employed within firms managing the equity securities offering to produce research), during the formation of their views on an issue in the pre-offering phase of a capital raising process;
- The prominence of conflicted connected research during investor education and price discovery in equity initial public offerings (IPOs); and
- Conflicts of interest during the allocation of securities.

It was also concluded that the following risks are also present in some of the countries represented on Committee 3:

- Management of underwriting risk by firms managing a securities offering and associated conflicts of interest in the pricing of securities; and
- Conflicts of interest associated with personal transactions by staff employed within firms managing securities offerings

IOSCO Guidance

This final report sets out Guidance to IOSCO members to address the identified risks and is a reflection of the expectation of high standards of conduct by market intermediaries in the equity capital raising process.

Although the Guidance set out below is not binding, given the significant potential risks it is intended to address, IOSCO members are encouraged to consider them in the context of their legal and regulatory frameworks.

In addition, when implementing Measures 1-4, which are set out below together with the other measures, it may be relevant for IOSCO members to have regard to proportionality in the context of transactions for small and medium-sized enterprises (SMEs) seeking to raise finance through equity capital markets.

Measure 1

In the context of pitches to secure a mandate to manage an equity securities offering, regulators should consider requiring firms to take reasonable steps to prevent their analysts from coming under pressure to take a favourable view on the offering from the issuer's representatives.

Measure 2

Regulators should consider requiring that once an underwriting or placing mandate has been awarded, firms take reasonable steps to prevent a connected analyst's views and research on the equity securities offering from being improperly influenced and to ensure that the analyst remains independent.

Measure 3

Regulators should consider requiring that once an underwriting or placing mandate has been awarded, firms have appropriate controls to manage potential conflicts of interest and associated conduct risks arising from connected analysts performing an internal advisory role within the firm while also producing research on an equity securities offering.

Measure 4

Regulators should encourage the timely provision of a range of information to investors in an equity securities offering, where distribution of such information is permitted under local law.

Measure 5

Regulators should consider requiring firms to maintain an allocation policy that sets out their approach for determining allocations in an equity securities offering and to provide the issuer with an opportunity to be involved in the process.

Measure 6

Regulators should consider requiring firms to maintain records of the allocation decisions made in an equity securities offering to demonstrate that any conflicts of interest are appropriately managed.

Measure 7

Regulators should consider requiring firms to manage any conflicts of interest that arise in relation to pricing an equity securities offering, keep the issuer informed of key decisions or actions which can influence the pricing outcome, and give the issuer an opportunity to be involved in decisions regarding the pricing of an issue during the pricing process.

Measure 8

In the context of an equity securities offering, regulators should consider requiring firms to take all reasonable steps designed to prevent any employees who have access to confidential information on the issuer or the offering from entering into or causing any personal transactions in situations where such transactions would involve misuse or improper disclosure of the information. Regulators should also consider requiring firms to prevent any employees from entering into personal transactions where such transactions would otherwise give rise to any conflicts of interest.

Conclusion and next steps

The Guidance set out above is intended to address some significant potential conflicts of interest and associated conduct which can arise at various stages of the equity capital raising process.

If properly implemented, the Guidance should bring about material improvements to the process. In particular, it may contribute to enhancing the:

- Range and quality of timely information that is made available to investors during the process;
- Transparency of allocations of securities; and hence the
- Efficiency and integrity of the overall process, boosting investor confidence and making capital markets a more effective route for issuers to raise finance.

This would help to ensure that capital markets continue to have a positive impact on the global economy.

IOSCO will now turn to the second stage of the project, which is to examine whether or not the issues and potential harms identified in this report are common to the debt capital raising process across different jurisdictions, and whether any regulatory response is necessary.

Link of interest:

[IOSCO Final Report on conflicts of interest and associated conduct risks during the equity capital raising process](#)