

## **The Asia Region Funds Passport Initiative – Challenges for Regulatory Coordination<sup>1</sup>** **Andrew Godwin and Ian Ramsay**

### **Discussion Paper**

In the wake of the Global Financial Crisis of 2008, global and regional coordination has become increasingly important in cross-border financial regulation. In addition to dealing with the general aspects of regulatory supervision and enforcement, coordination now has to deal with a range of specific areas. These include crisis management, the regulation of hedge funds, shadow banking activities, over-the-counter derivatives, bank resolution, Basel compliance and financial inclusion, to name a few.

Few people would deny that coordination is a good thing. The critical question is how it should best be achieved. Although there are existing mechanisms for achieving coordination and cooperation in the context of general enforcement and supervisory activity, these mechanisms become more problematic when applied to new areas such as those identified above. This is because most (if not all) of these areas involve coordination and cooperation between multiple regulators, operating in both a global and regional context, and bring into play a number of dynamics that have their roots in economic, political, financial, legal and other considerations.

This discussion paper considers the challenges for regulatory coordination in relation to the proposed Asia Region Funds Passport (the 'ARFP'). It commences with some background information on this initiative and the benefits that it is expected to achieve. It then outlines the practical arrangements that are required to support it, including the need for coordination between the member economies. Following this, the paper explores the framework within which effective coordination might be achieved by reference to some of the literature in this field and also the issues and challenges that are specific to the ARFP. The paper ends with some concluding remarks, including what effective coordination on this initiative means for regional coordination in the area of financial regulation generally.

### **Background and expected benefits**

The Asia Region Funds Passport Initiative grew out of a recommendation in the report of the Australian Financial Centre (known as the Johnson Report). The concept was subsequently introduced as an exploratory policy initiative within the APEC Finance Ministers' Process. On 29 September 2013, four economies - Australia, New Zealand, Korea and Singapore – signed a Statement of Intent and a Framework Document, under which a framework was agreed to pilot the initiative.<sup>2</sup>

As noted on APEC's website,<sup>3</sup> the initiative 'will enable operators of collective investment schemes based in passport member economies to offer their products to investors in other passport member economies, subject to a streamlined regulatory process.' For example, an Australian fund manager will be able to distribute an Australian-domiciled fund in any of the other passport member countries. The website further notes that the 'Passport represents a practical step towards better integrated financial markets in the APEC region.'

More specifically, the ARFP Consultation Paper<sup>4</sup> identifies a number of expected benefits, including the following: greater competition in the Asia region, which will result in lower

<sup>1</sup> This paper is part of a research project - 'Financial Regulation in Asia – A New Model for Regional Cooperation' - which is supported by a Melbourne School of Government Research Cluster Grant.

<sup>2</sup> For a copy of the framework documents, including the Statement of Intent, see [http://www.apec.org/~media/Files/Groups/FMP/20130923\\_ARFP\\_SOI\\_Signed.pdf](http://www.apec.org/~media/Files/Groups/FMP/20130923_ARFP_SOI_Signed.pdf).

<sup>3</sup> See <http://www.apec.org/Groups/Other-Groups/Finance-Ministers-Process.aspx>.

fees and greater choice for investors; the development of a regional framework, which ‘represents the combined expertise of multiple regulatory agencies and promotes the sharing of strong regulatory practices [and] may also lead to improved regulatory practice across the region’; the strengthening of the capacity and competitiveness of the Asia region fund management industry by ‘[p]roviding passport fund operators with access to a larger pool of potential investors [which] may allow them to realise economies of scale and enhance their competitiveness visàvis funds constituted outside the Asia region’; and broader economic benefits by deepening the region’s financial markets and ‘improving liquidity and access to finance’.

### **Practical arrangements**

An initiative such as the ARFP needs to be cognisant of the reality that, unlike the position in the European Union where there are harmonised rules and member states are subject to legally binding obligations and supervision by supra-national authorities such as the European Securities and Markets Authority (ESMA),<sup>5</sup> each participant economy is an independent jurisdiction with its own laws and rules governing collective investment schemes (CIS). This has a number of ramifications. First, it means that it is necessary to establish a mutual recognition arrangement under which a member economy - known as the ‘host economy’ - is willing to recognise a collective investment scheme established in another member economy - known as the ‘home economy’ - for the sale of that collective investment scheme in that host economy. Once a CIS is recognised as a passport fund, it is then necessary to determine which laws - namely, the home laws or the host laws - apply to which aspects of the passport fund. For example, the ARFP framework envisages that a passport fund will be subject to the laws of the host economy only in a limited range of areas (namely, labelling, disclosure, distribution and complaints) and that it will otherwise be subject to the laws of the home economy.

Secondly, it is necessary to establish the common regulatory arrangements that each member economy will implement for the purposes of the passport arrangements. These include the application process; namely, the basis on which a regulated CIS is registered as a passport fund in the home economy and recognised by a host economy (this includes the eligibility requirements in respect of the operators of the CIS). They also include the need for each regulator to have the necessary supervisory, investigative and administrative powers to ensure that passport funds comply with the applicable rules and to take all appropriate actions such as issuing stop orders and deregistering passport funds where such action is necessary.

Thirdly, it is necessary to establish the passport rules; namely, the eligibility and compliance rules that a fund must comply with in order to qualify as a passport fund.<sup>6</sup> These rules include the requirements for the constituent documents of the fund, the qualifications of the operator of a passport fund, breach reporting and the requirements and restrictions that apply to the passport fund in areas such as permitted investments, portfolio allocation, permitted exposure to derivative and securities lending contracts, redemption requirements and asset valuation.

All of these areas require a framework to achieve effective coordination between the regulators of the member economies and to establish procedures by which the member economies can oversee the passport arrangements and cooperate in their implementation. These procedures will need to deal with a number of aspects, including information-sharing

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4 Asia-Pacific Economic Cooperation (APEC), *Consultation Paper: Arrangements for an Asia Region Funds Passport*, available at <https://www.google.com.au/#q=asia+region+funds+passport+consultation+paper>.

5 See, for example, the arrangements in relation to Undertakings in Collective Investment in Transferable Securities (UCITS).

6 These rules will usually prevail over any inconsistencies with the laws and regulations of the home economy.

and confidentiality; ongoing consultation between the regulators and the member economies on issues such as the interpretation of the passport rules, the making of eligibility and compliance determinations and the assessment of applications from new member economies to join the passport arrangements; and mutual assistance between the regulators to enable them to undertake their supervisory and enforcement responsibilities on a cross-border basis.<sup>7</sup>

### **The framework for coordination**

The design of the framework for coordination is of critical importance, particularly in the absence of a harmonised system as exists in the EU. A logical approach to the design of this framework would involve a combination of two elements: (1) general arrangements to facilitate cross-border supervision and enforcement cooperation directly between the passport regulators; and (2) a standing committee or permanent body, on which representatives of the member economies would sit, which would act as a joint committee to oversee and monitor the specific passport arrangements, consider issues that come up from time to time concerning their interpretation and implementation, and make non-binding assessments and recommendations to the member economies (e.g. assessing applications from, and making recommendations in relation to, new member economies).<sup>8</sup> These two elements differ in terms of their remit and objectives: the general cooperation arrangements would provide a framework within which the relevant regulators can cooperate on routine issues concerning supervision and enforcement.<sup>9</sup> The joint committee, on the other hand, would represent the broad interests of each member economy, not just those of the relevant regulator within each member economy, and could help to resolve any differences that arise between the member economies in respect of the interpretation and implementation of the passport arrangements. The discussion below considers what insights the existing literature can offer in relation to each of these elements and makes suggestions as to how issues specific to the ARFP might be resolved.

#### *(i) General cooperation arrangements*

The framework for the general cooperation arrangements between the regulators of each member economy is likely to draw on two international instruments: (1) the sample Memorandum of Understanding concerning Consultation, Cooperation and the Exchange of Information Related to the Supervision of Cross-Border Regulated Entities, which is included as Annex A in the 2010 IOSCO Principles Regarding Cross-Border Supervisory Cooperation (the ‘**IOSCO Principles**’);<sup>10</sup> and (2) the 2002 (revised May 2012) IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the ‘**IOSCO MMoU**’), which deals with enforcement cooperation and is ‘regarded as the benchmark for international enforcement-related cooperation.’<sup>11</sup>

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7 Such assistance will include cross-border site visits to enable a regulator to have access to a regulated entity that operates in another member economy.

8 Paragraphs 26 to 28 of the ARFP Consultation Paper, above n 4, deal with governance and provide that a Joint Committee, with representatives from all passport member economies, will oversee the operation of the passport.

9 The arrangements could also include coordination actions that should be taken by the relevant regulators in the event of emergency situations.

10 2010 IOSCO Principles Regarding Cross-Border Supervisory Cooperation, available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD322.pdf>.

11 2002 (revised May 2012) IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information, available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD386.pdf>.

The IOSCO Principles contain general principles relating to regulatory cooperation and focus on ‘the need for supervisory cooperation independent of an enforcement context.’<sup>12</sup> A distinction is thus recognised between ‘supervisory cooperation’ and ‘enforcement cooperation’. Whereas ‘enforcement cooperation’ refers to the situation where a regulator in one jurisdiction seeks the assistance of a regulator in another jurisdiction in the context of enforcement action, ‘supervisory cooperation’ refers to cooperation in the context of routine regulatory oversight activities, including the gathering of information for the purpose of supervising individual institutions and assessing risks generally.

The IOSCO Principles also establish principles concerning the different forms of cooperation. These include the following: *ad hoc* discussions; bilateral and multilateral memoranda of understanding; supervisory colleges, which are established to provide oversight over specific financial institutions; and networks of regulators.

The IOSCO Principles identify various obstacles to cooperation in this context.<sup>13</sup> Typical obstacles to regulatory cooperation between jurisdictions include the following: legal and regulatory obstacles, such as ‘restrictions on the ability of regulators to obtain and share relevant information with their overseas counterparts’; the concern on the part of some regulators that supervisory cooperation would require them to relinquish ‘their oversight responsibilities to another regulator’ or would result in a loss of control; and a lack of resources to provide meaningful assistance.<sup>14</sup>

Significantly, the IOSCO Principles note that ‘[e]ffective supervisory MOUs should...be based on mutual trust and mutual assistance and put in place working arrangements that are based on the principle of reciprocity.’<sup>15</sup> A critical question is how such working arrangements should be designed and implemented.

One challenge that arises in the context of the ARFP is that coordination may need to take place between multiple regulators on a parallel basis, rather than on a bilateral basis between two regulators, as contemplated by the sample Memorandum of Understanding concerning Consultation, Cooperation and the Exchange of Information Related to the Supervision of Cross-Border Regulated Entities.<sup>16</sup> The IOSCO MMoU, although a multilateral document in terms of its signatories, also contemplates that cooperation and information-exchange will normally be on a bilateral basis between one ‘requesting authority’ and one ‘requested authority’, instead of between more than two authorities or regulators in parallel.

By contrast, because there may be circumstances in which a passport fund is distributed and sold in two or more host economies under the ARFP, a home regulator that receives a request from one host regulator will need to consider the extent to which it should consult and share information with the other host regulators and also what channels of communication should be put in place to ensure that this is effective. In addition, outside the context of a formal request, a regulator (whether a home regulator or a host regulator) will need to consider when, and to what extent, information that might be of interest to one regulator might also be of interest to the other regulators. For this purpose, consideration should be given to the

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12 The IOSCO Principles, 8.

13 The IOSCO Principles, chapter 5, 15.

14 See also Janet Austin, ‘IOSCO’s Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information’, (2012) 23 *Criminal Law Forum* 393, 400.

15 The IOSCO Principles, 34.

16 Annex A states that it may serve to assist IOSCO members when designing bilateral supervisory arrangements.

establishment of secure websites and other common databases so that each regulator has access to all of the information that it needs and so that unnecessary duplication is avoided. Cooperation arrangements such as those described above, whether on a bilateral or multilateral basis, have been referred to as bilateral or regional networks<sup>17</sup> that rely on ‘soft law’ (i.e. non-binding) frameworks and mechanisms.<sup>18</sup> Pan suggests that ‘[t]he optimal conditions for cooperation between regulators occur when there already exists a mutual understanding between regulators that comes about through familiarity with each other’s regulatory frameworks, markets, and regulatory approaches.’<sup>19</sup>

Such mutual understanding is likely to exist between the economies who signed the ARFP MoU through the strength of existing regulatory relationships, built either on the basis of bilateral arrangements<sup>20</sup> or otherwise. However, the challenges are likely to increase as new members join, some of which may not have had close dealings previously with all of the members. In addition, one might expect cooperation between jurisdictions that have similar legal and regulatory systems – such as Singapore, Australia and New Zealand – to be easier than cooperation between jurisdictions that have different legal or regulatory systems. In this regard, the current ARFP initiative is interesting in that it involves a jurisdiction (Korea) that might be considered to be different from the others in terms of its legal and regulatory system. Differences between member economies concerning how collective investment schemes are regulated and supervised may create challenges in determining equivalence and implementing the common regulatory arrangements.<sup>21</sup>

In specifying the criteria that jurisdictions must satisfy in order to become member economies, there is potential for the ARFP framework to achieve convergence in the regulation of collective investment schemes and to lead to improved regulatory practice across the region, which was one of the objectives identified in the Consultation Paper. This is particularly so if one of the conditions for admitting a new member economy to the ARFP

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17 See Eric J. Pan, ‘Challenge of International Cooperation and Institutional Design in Financial Supervision: Beyond Transgovernmental Networks’, (2010) 11 *Chicago Journal of International Law* 243, 258-262.

18 Austin, above n 14, 415.

19 Pan, above n 17, 261. A similar sentiment is embodied in the Principle 1 of the *Basel Principles for effective supervisory colleges* (see further below).

20 The Australian regulators have strong relationships with the regulators in New Zealand (the Financial Markets Authority) as a result of the close economic ties between the two countries and also with Singapore (the Monetary Authority of Singapore). Reinforcing the strength of the relationship with Singapore, ASIC and MAS recently signed a memorandum of understand that will allow trade repositories licensed in one jurisdiction to provide relevant data to the authority in the other jurisdiction. In a joint statement, ASIC and MAS said that ‘the signing of the MOU between ASIC and the MAS is a world first for this type of arrangement and embodied the ongoing close cooperation between ASIC and MAS on financial market issues, including the implementation of the Group of Twenty (G20) over-the-counter derivatives (OTC) derivatives reforms’: ASIC media release dated 17 September 2014, available at <http://www.asic.gov.au/about-asic/media-centre/find-a-media-release/2014-releases/14-237mr-asic-and-mas-sign-world-first-memorandum-of-understanding-on-authorities-access-to-otc-derivatives-trade-repository-data/>. In terms of Korea, APRA has bilateral information sharing arrangements with the Financial Supervisory Service of Korea. However, the strength of the relationship between ASIC and the Korean regulator is not widely reported.

21 Examples of areas in which differences might exist are the regulatory requirements for independent oversight and auditing of collective investment schemes. Closer to home, the difficulties that international investors have in understanding the responsible entity structure for managed investment schemes in Australia, together with the various recommendations for it to be replaced with a structure that involves a separate legal entity, have been widely reported. See, for example, King & Wood Mallesons, ‘A new Australian investment fund vehicle?’, Client Alert, 30 August 2012, available at <http://www.mallesons.com/publications/marketAlerts/2012/Pages/A-new-Australian-investment-fund-vehicle.aspx>.

is that its regulatory framework is equivalent to those of the existing member economies and it meets the applicable eligibility criteria. The eligibility criteria are likely to include the requirement that the new member economy is a signatory to the IOSCO MMoU and that it has been assessed as having implemented the relevant IOSCO Principles on enforcement, cooperation and collective investment schemes.<sup>22</sup>

The potential for convergence has previously been noted in relation to the IOSCO MMoU.<sup>23</sup> As noted by Austin, ‘if these networks can make the adoption of standard principles of regulation inextricably linked to mechanisms wanted and needed by regulators for enforcement, convergence of regulation is likely to be achieved’.<sup>24</sup> Austin goes on to note, however, that although convergence may be attractive in relation to fraud prevention, it may be less likely in areas in which economies have diverse domestic preferences and perceive a competitive advantage in keeping their securities regulations distinct.<sup>25</sup>

One area in which convergence would appear to make sense is disclosure. Recent years have seen a trend in many jurisdictions towards the adoption of short-form disclosure documents for retail financial products, including collective investment schemes. These jurisdictions include Australia, New Zealand, Singapore and Hong Kong. This trend has been driven by a number of factors, including recognition of the limitations of the conventional approach to disclosure (particularly in areas such as content, language and format), challenges arising out of the increasing complexity of financial products and also the results of investor research demonstrating that retail investors are not likely to read lengthy disclosure documents. However, despite encouraging moves towards convergence in this regard, there is a fundamental issue as to whether full convergence would be possible in view of differences in the legal and regulatory regimes, the scope of products to which the short-form disclosure documents apply and the purpose that such documents are designed to serve.<sup>26</sup> It will be interesting to assess the impact on the ARFP initiative on convergence in areas such as disclosure and distribution.

(ii) *Joint committee*

The international experience does not provide any specific practice or guidance in terms of the design and operation of the joint committee. The closest analogy may be supervisory colleges. As noted above, supervisory colleges are established to provide oversight over specific financial institutions. Although the role of the joint committee for the ARFP will focus more on oversight than supervision and will not be exactly the same as a supervisory college, where regulators must collaborate closely and share information in relation to the supervision of specific financial institutions, it is suggested that some of the experience will be relevant to the joint committee.

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22 As noted in the Statement of Intent, the relevant principles are: Principles 10 to 15 and 24 to 27 covering Principles for the Enforcement of Securities Regulation, Principles for Cooperation in Regulation and Principles for Collective Investment Schemes (except those that specifically relate to hedge funds).

23 Austin, above n 14.

24 Austin, above n 14, 423.

25 Austin, above n 14, 418. Austin further notes that ‘[c]ritics of the capacity of networks such as IOSCO to secure global cooperation, such as Pierre-Hugues Verdier, contend that there are limits. He argues that securities regulators will cooperate where preferences are aligned. However where there are divergent domestic preferences agreement is unlikely to take place.’

26 For an analysis of the trend towards short-form disclosure documents, see Godwin, A. and Ramsay, I., ‘Financial Products and Short-form Disclosure Documents: A Comparative Analysis of Six Jurisdictions’ (2015) *Capital Markets Law Journal* [forthcoming].

Some guidance in this regard can be gleaned from the Basel *Principles for effective supervisory colleges* (the ‘**Basel Principles**’), the latest iteration of which was issued in June 2014.<sup>27</sup>

Principle 1 of the Basel Principles provides as follows:

Information exchange and cooperation among supervisors are essential for strengthening the supervision of a cross-border banking group. This objective should be achieved on an ongoing basis and not just during the meetings of the colleges. Supervisory colleges are conceived as a set of ongoing relationships among supervisors, covering any contact among them (e.g. teleconferences, videoconferences, letters, e-mails and via secure websites).<sup>28</sup>

Similar to the IOSCO Principles, it goes on to provide that ‘[c]lear supervisory understanding and strong levels of mutual trust and confidence between national supervisors on an ongoing basis and through the normal course of supervision are necessary to facilitate the successful implementation of this Principle’. Similar comments appear in Principle 3, which deals specifically with information-sharing:

Mutual trust and willingness to cooperate are key for effective two-way information-sharing...A successful college outcome entails effective two-way information exchange between home supervisors and host supervisors on a timely basis, both in normal and crisis situations...Information-sharing generally should be continuous and timely, as part of an ongoing college process, rather than a discrete one-off or periodic event.<sup>29</sup>

In addition, Annex 2 of the Basel Principles contains a statement of cooperation between banking supervisors, which ‘sets out the essential elements of a statement of mutual cooperation, such as contained in a Memorandum of Understanding (MoU) or similar arrangements, that can be used as a reference for establishing bilateral or multilateral relationships between banking supervisory authorities in different countries (and, where appropriate, between banking supervisors and other financial regulators).’<sup>30</sup> The essential elements of a statement of mutual cooperation include information-sharing,<sup>31</sup> on-site inspections, confidentiality of information and ongoing coordination.<sup>32</sup>

Annex 2 also sets out the principles for establishing statements of cooperation for the sharing of confidential supervisory information. These include the principle that supervisory statements of cooperation ‘must meet appropriate criteria for maintaining standards, protecting confidential information and using supervisory resources efficiently.’ These criteria include materiality in relation to the existence or expectation of cross-border business; equivalence in relation to confidentiality requirements; and reliability in relation to the counterparty’s ability in practice to protect and share information, including judicial and political credibility and regulatory track record.<sup>33</sup>

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27 The Principles note that ‘EU competent authorities have developed a framework of cooperation that is legally binding for all supervisory authorities in the European Economic Area (EEA)’ and that ‘[t]he EU framework has been designed to link non-EEA supervisors to EU colleges.’

28 Basel Principles, 4.

29 Basel Principles, 9.

30 Basel Principles, 21.

31 The Basel Principles, 23, state that information-sharing ‘must be underpinned by trust and a network of relationships that are required for effective information-sharing, particularly, where confidential information is concerned.’

32 The Basel Principles, 23, state that ‘[t]he statement should recognise that visits for information purposes and exchanges of staff may promote cooperation between supervisors in country A and country B.’

33 The Basel Principles, 26.

The experience of supervisory colleges suggests that ongoing communications and cooperation are critical to the effectiveness of a body such as the joint committee and that this, in turn, will be dependent on mutual understanding and trust between its representatives. There are at least four implications that might arise out of this. First, it will be important to have rules and procedures governing the operation of the joint committee that facilitate ongoing communications and cooperation and are flexible enough to adapt to, and accommodate, the circumstances at any point in time. Secondly, it will be important to ensure that the joint committee operates in an inclusive manner and by consensus so that the concerns of all member economies are taken into account.<sup>34</sup> Thirdly, it will be important to ensure that the joint committee is appropriately resourced and supported so that it is able to achieve its objectives. Fourthly, it will be important to be aware of the broader impact that the joint committee will have on relations and regulatory cooperation between the member economies and within the region generally, and the potential for the joint committee to make either a positive or negative impact. In this regard, consideration could be given to initiatives that have proven effective in similar contexts, such as secondments between regulators and technical assistance and expertise-sharing initiatives.

It is also possible that the way in which the cooperation framework itself is designed and implemented will have an impact on its effectiveness and attractiveness to regulators and prospective member economies. Of interest in this regard is the following observation in Annex 2 of the Basel Principles:

There are different ways in which the relationship between the two sets of supervisors can gain expression. Some prefer something akin to a legal document which is drafted by lawyers to provide protection to both parties, while others prefer a simpler and more flexible understanding that can be set out in an informal exchange of letters. The manner in which the understanding is framed will be a matter for the countries concerned. The essential elements of a statement of mutual cooperation, as set out below, can be included in either approach, but experience has shown that supervisors should take care that any statement does not become too prescriptive or they may find themselves constrained in their ability to communicate.<sup>35</sup>

Based on the approach to date, it appears that the ARFP initiative will be closer to the first approach outlined above; in other words, the arrangements will be based less on an informal exchange of letters and more on a detailed cooperation framework, albeit one that relies on soft law (i.e. non-binding) mechanisms. Although there are good reasons for adopting such an approach in terms of achieving transparency and certainty, it is possible that this will be considered by some economies to be less compatible with their preferred approach. In this regard, some interesting comparisons might be drawn between the ARFP approach and the approach of the ASEAN Collective Investment Scheme, which has been entered into by Singapore, Malaysia and Thailand.

### **Conclusion**

If the ARFP initiative is to achieve its objectives and be successfully implemented, the design of an effective coordination framework will be of critical importance. As outlined above, this framework is likely to consist of two elements: cooperation arrangements between the securities regulators in the member economies and a joint committee to oversee and monitor the specific passport arrangements.

It is likely that the cooperation arrangements will draw on established international principles and practice, as reflected in the IOSCO Principles and the IOSCO MMoU. Inevitably, however, some adjustments will be required in order to reflect the nature of the passport arrangements, which will need to accommodate coordination between multiple regulators on

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<sup>34</sup> This may be challenging given the different levels of experience and expertise within the region and between member economies.

<sup>35</sup> Basel Principles, 21.

a parallel basis rather than on a bilateral basis. Information-sharing and ongoing cooperation will be key to the effectiveness of these arrangements.

There is less international experience to guide the joint committee, which will need to be designed and established with sufficient flexibility and resources to adapt to, and accommodate, the circumstances at any point in time. This paper suggests that some useful insights can be provided by the experience of supervisory colleges. This experience suggests that ongoing communications and coordination will be critical to the effectiveness of the joint committee. In turn, these will depend on mutual understanding and trust between the representatives on the joint committee.

Of course, there are other factors that will impact on the success of this initiative and its ability to meet its stated objectives, including its potential to form part of a single regional passport arrangement that incorporates all of the various initiatives in this area.<sup>36</sup> These factors include the competitive tensions between the economies in the region, particularly in economies that have been actively promoting growth in their fund management sectors for some time such as Singapore and Hong Kong. Inevitably, the factors will also include considerations that have their roots in politics and international relations.

If the design of the coordination framework for the ARFP is effective, there is potential for it to serve as a model for regional architecture in the area of financial regulation generally. In particular, the joint committee concept represents a new approach to achieving effective coordination and dialogue, not just between regulators as has occurred pursuant to most bilateral and regional networks to date, but also between the representatives of economies more broadly. In this respect, the concept resonates with other proposals that attempt to achieve similar objectives.<sup>37</sup>

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36 In addition to the ARFP and the ASEAN CIS Scheme, mainland China and Hong Kong are reportedly in discussions to establish a mutual recognition arrangement.

37 One example is the proposal to create an Asian Financial Stability Dialogue. See Masahiro Kawai and Peter J. Morgan, 'Regional Financial Regulation in Asia', *ADBI Working Paper Series* No. 460, February 2014, where the authors suggest that this could 'provide a forum for broader information sharing in the areas of macroeconomic and financial stability' and 'complement and coordinate with existing regional entities' (25-26).