REMARKS OF
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UNITED STATES SECURITIES AND EXCHANGE COMMISSION

BEFORE THE
MEXICAN BORROWERS CONFERENCE

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The views expressed herein are those of Commissioner Schapiro and do not necessarily represent those of the Commission, other Commissioners or the staff.

U.S. Securities and Exchange Commission
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Good Afternoon. It is a pleasure to be here today.

I have been asked today to give you a US view of the Mexican markets. I find myself in the uncomfortable position of being surrounded by people who can speak with far more authority and knowledge on that subject than I can. My view is necessarily that of a regulator; my connection to the Mexican markets arises from a deep personal interest in Mexico and it centers on those issues of market regulation and securities trading that cross our borders and therefore implicate the jurisdiction of the Securities and Exchange Commission and the interests of US investors, exchanges or intermediaries. Nevertheless, there is much to talk about, even for a regulator, because there is a great deal transpiring between our countries in regard to financial markets.

The key areas of SEC interaction with Mexico fall into several categories: cooperative regulatory and enforcement efforts with the Comision Nacional de Valores; cross-border offerings - both public and private; and market access issues arising from the negotiation and ultimate implementation of the North American Free Trade Agreement.

I'd like to start with the securities offering process. Mexico leads Latin America in debt and equity issuance in the US market. The heretofore nearly insatiable demands of US investors for Mexican securities has resulted in $7.2 billion of Mexican securities offered publicly and through 144A transactions in the US markets in the last two years, including the $250 million ten year bond offering by the United Mexican States in September 1992. And, as you are all aware, there are a number of registration statements for Mexican debt and equity offerings currently pending at the SEC, and additional companies that have announced their intention to file in the near future. The US private market also continues to attract significant Mexican interest; and that is where I would like to begin this afternoon.

There have been significant developments in the private market, with none more important than the enactment of Rule 144A. 144A has become an extremely important vehicle for Mexican companies raising capital in the US. As I am sure you know, the rule was promulgated by the SEC in 1990 as a means to enhance the liquidity of the private market by allowing for the resale of restricted securities to qualified institutional buyers or "QIBs". Rule 144A was, at the time of its enactment, a rather dramatic and bold experiment for the SEC, and we were subjected to a great deal of criticism for potentially promoting a two-tier market.

In devising Rule 144A, we hoped that foreign issuers who were reluctant to enter the US public market because of accounting, cost, liability or other concerns would be attracted to the private market. And, further, we hoped that once in the private market, the next step for some 144A issuers would be a public offering.

Rule 144A has not disappointed us: 206 foreign and US issuers have sold nearly $25 billion ($24.8) in 144A securities. There have been 41 Latin American placements for a total of $3.8 billion offered in US tranches ($2.62 billion in equity and $1.20 billion in debt), with overall (i.e., worldwide) proceeds of $6.2 billion. Mexican issuers are responsible for $2.8 billion in 28 US placements.

Our statistics show that the beginning of the Persian Gulf War had the effect of depressing the number and dollar amount of Rule 144A placements. With the end of the hostilities, the numbers rose markedly until mid-1992 at which time, as you are all well aware, there occurred rapid and significant share price declines on stock exchanges in many developing markets. These price declines and fears of a saturated private placement market in the US resulted in a number of issuers cancelling or postponing 144A equity offerings. As a result, there have been very, very few 144A placements of common equity from Latin American issuers since mid 1992.

Mexican debt issuance however, surged in the fourth quarter of last year. Generally, Mexican issuers have done debt and equity 144A offerings in the US as a part, usually a significant part, of a global offering. Such was the case in the first Mexican 144A offering - Telmex - in which the US tranche represented over two-thirds of the securities offered. This was also true in the ICA offering last month, although the US tranche was considerably smaller. And, it has been true in nearly every other Mexican 144A offering. In only a few cases, involving offerings by Kimberly Clark de Mexico, Vitro and Internacional de Ceramica, were there no international tranches to accompany the Rule 144A offering in the U.S.

Mexican companies have also used 144A as a "stepping stone" to the public market. Telmex, Transportacion Maritima Mexicana, and Vitro all were introduced to US investors through 144A before publicly issuing equity and listing on the New York Stock Exchange.

There are some other general trends in the use of 144A that you might find interesting. For example, while domestic US issuers have predominantly used the 144A market for debt, and to a lesser extent preferred stock, foreign issuers, including many Mexican companies, have demonstrated a willingness to use this market to sell common stock. US issuers are increasingly offering convertible preferred stock and convertible or exchangeable debt, while foreign issuers have done so rarely, and even then none of the companies was rated below investment grade. We have seen a dramatic rise in the offering of asset-backed securities. There have been 15 Rule 144A placements of asset backed securities in the past 18 months, raising nearly $2.4 billion.

For the past seven years, foreign issuers of debt in the US have sold equal or greater amounts in the private placement market as in registered offerings. The largest purchasers of straight debt and asset-backed securities have been insurance companies, while investment companies have dominated the purchasing of common equity. As institutions increasingly dominate the US markets, it seems highly unlikely that the public market for debt will outpace the institutional private placement market any time soon. Of course, this institutional dominance increases the importance of credit ratings since institutional investors' portfolios are frequently subject to credit standards and/or reserve requirements imposed by regulators. If the predictions that Mexico will be upgraded to investment grade prove true, the potential universe of purchasers of Mexican bonds could be dramatically increased.

Another trend is seen in the increasing size of individual offerings. For example in 1991, the average 144A offering was for $94.2 million; in 1992, there were only two-thirds as many offerings but the average size was $155.8 million, demonstrating this market's ability to absorb larger and larger amounts of stock.

We have not seen anything that demonstrates that the early predictions that 144A would cause harm to the public market were at all accurate. 144A placements have represented only about 2% of the dollar amount of all registered offerings since the rule's enactment. And, since 144A is not available with respect to the same class of securities already traded on an exchange or NASDAQ, 144A has not hurt the liquidity or affected the pricing efficiency of those companies' securities.

The Commission is committed to improving the 144A market and we have focussed our efforts on increasing the liquidity of the market for these securities. The SEC has recently taken steps to enlarge the class of qualified institutional buyers who can participate in the 144A market. Our recent amendments expanded the definition of QIB to include collective trust funds (a fund whose assets consist of funds from multiple pension or other employee benefit plans, eliminating the need for each component plan to qualify); master trusts (multiple plans under the common sponsorship of a single employer); and insurance company separate accounts. The amendments also broadened the eligibility criteria by permitting the inclusion of US government securities in the $100 million calculation for status as a QIB.

Although it is difficult to quantify, these changes should add significant new buying power to the 144A market. We try to be conscious that the market for these investments can change and that the regulatory framework must change as well. Let me assure you that the Commission is committed to exploring whatever changes are necessary to further improving the private placement market.

The experience of the last three years has shown that a healthy private placement market can develop without the existence of a competent vehicle for secondary trading. However, as initial demand is met, I suspect that the ability to trade Rule 144A securities may become increasingly important to the growth of the private placement market. Clearly, that means that the secondary trading market is an area ripe for improvement.

The NASD Portal system was established in 1990 to provide a marketplace for primary distributions and secondary trading of 144A securities. The original system was not widely embraced by the market because it imposed greater limitations on resales than the rule itself, plus significant oversight by the NASD. NASD oversight arises out of a concern - shared by the SEC - about how to prevent the flow of unregistered, 144A securities into the hands of non-QIB or retail purchasers. Thus, the NASD's original system sought to prevent this leakage by including a number of limitations designed to ensure Portal would operate as a closed trading system.

The NASD has proposed extensive amendments designed to reduce or eliminate several of these limitations. Commenters on the proposed rule amendments have suggested further changes to increase the efficiency, liquidity, and therefore the attractiveness of PORTAL to issuers and other market participants. Commission staff is working with the NASD to explore the extent to which any such additional changes would be appropriate, with a view to assuring that there are still sufficient protections against leakage into the retail market.

As with the 144A market, the public market in the US has also increasingly attracted Mexican issuers. Perhaps one of the most important offerings in terms of size and breadth of distribution was the September 1992 Yankee Bond offering by UMS, which represented Mexico's return to the Yankee Bond market.

This increased inflow of public issues has occurred despite the existence of some hurdles to registration. For example, the decision to enter the US public markets requires an issuer to reconcile financial statements to US Generally Accepted Accounting Principles. This obligation is frequently mentioned as the most significant deterrent to listing in the US. The costs, and often the difficulties, of reconciling to US GAAP can be substantial, and we are fully cognizant of issuers' concerns. The fundamental differences between US and Mexican GAAP have been identified by the SEC staff and efforts are made on a case-by-case basis as well as on a broader basis to accommodate foreign standards within the confines of our basic disclosure system. In other words, we are striving to be as accommodating as possible in the review of financial filings.

There are six Mexican companies which have equity traded on US exchanges and the NASDAQ. We have worked individually with many of these issuers to guide them through the registration process. For example, in the Telmex offering, the SEC staff coordinated its efforts with Telmex to expedite the review process through pre-filing conferences and advance review of draft registration statements. There was also coordination with the CNV to permit market stabilizing activities in the Mexican market. We have also made specific accommodations to other issuers, for example, with regard to segment reporting of price level adjustments, utility accounting for toll roads, inflation effects, and variable capital corporations. I believe that this increased flexibility on the part of the SEC is reflected in the substantial capital raising by Mexican and other foreign companies in the US public markets; recognizing of course that the principal reason foreign issuers choose to come here is the depth of the market and the cost of funds.

The increased interaction between the US and Mexican securities markets naturally requires expanded regulatory and enforcement cooperation. We have a formal "Memorandum of Understanding" with the Mexican CNV, signed in October of 1990. More importantly, we have built a strong relationship between the CNV and the SEC that has clearly benefitted Mexican issuers and broker-dealers entering the US market. We have a better understanding of Mexican accounting, trading systems and regulatory structure as a direct result of the willingness of the CNV to work with us. It is this understanding that has been important, for example, to our willingness to be flexible with respect to timing and other issues in public offerings with both a US and Mexican tranche. Further, our relationship has been of enormous help in investigating potential securities law violations that extend across the border.

In addition to enforcement, we will continue to work together on broader issues, including self-regulation, derivatives market development, asset securitization, and mutual fund regulation and disclosure - a particularly important issue right now in light of the recent revisions to the Mutual Fund law in Mexico, and the disappointing trend in fixed income mutual fund investment. And, of course, we will continue to be in close communication on a daily and even hourly basis when market conditions dictate that such frequent contact is appropriate and necessary.

We have also been working on a multilateral basis on regulatory cooperation. Last June, the securities regulatory authorities of sixteen countries in the Western Hemisphere met in Cancun to form the Council of Securities Regulators of the Americas or "COSRA". The Council has as its fundamental premise the belief that viable securities markets are essential to the development of private enterprise, the formation of savings and investment, the efficient allocation of resources and the promotion of economic growth. COSRA can play a critically important role in implementing legal, regulatory, and structural reforms designed to encourage broad-based participation in the securities markets. Participation in the markets that reaches down past the institutions, foreign investors and the wealthiest individuals to include a larger, more diverse segment of the population is an important objective and one which should be a part of the vision of societies whose economic growth foretells a vastly expanding middle class.

The member countries of COSRA believe that such participation can occur by fostering the basic protection of investors through the ethical treatment of customers and the enforcement of sound accounting principles with high standards for full and fair disclosure; by developing systems to ensure market transparency and efficient clearance and settlement systems; by establishing linkages among markets to enhance liquidity; and, finally, by removing regulatory barriers that impede unnecessarily cross-border investment opportunities.

I will predict for you that COSRA will become an important force in defining the regulatory approach taken in many countries of the Americas. We have a rare opportunity to shape the regulatory and market landscape of an entire region by working together at an early stage. As a result national differences can be minimized and we can maximize the opportunity for regulatory harmonization.

If COSRA provides us with a mechanism for financial regulatory coordination in the Western Hemisphere, NAFTA provides us with the legal framework and the clear direction. Certainly, with or without NAFTA, the ties that bind our two economies are deep and strong. But NAFTA pushes us to move ahead aggressively to erase the barriers that still exist to the free flow of capital and financial services between the US and Mexico.

Again, I feel compelled to remind you that I am a securities regulator and while I appreciate the enormous importance of the passage of NAFTA on many levels, I should limit what I say to issues of trade in financial services. I don't know that I agree completely with the often quoted Mexican economist who has said: "NAFTA is not just the icing. It is the cake, the oven and the kitchen." And, while I do not deny the enormous benefit to be derived from the agreement, I do believe that the economic reforms in Mexico are here to stay regardless. It is my hope that our governments will resolve all of the outstanding issues and move to ratify the agreement in the near future.

I view NAFTA as a starting point for achieving the goals and objectives of our financial services industry; it is a major step in a process that must continue until ultimately, markets are completely opened. For the SEC, it was important that NAFTA enhance competitiveness to the greatest extent possible while maintaining measures for the protection of investors, the integrity and financial responsibility of financial services firms, and the stability of the financial system. In addition, the agreement should, and does, promote long term coordination and enable the parties to minimize the effects of differing national regulations.

For US industry and the SEC it was critical in negotiating the agreement that it result in binding commitments to remove specific barriers in the financial services sector. In addition, we sought national treatment and to maximize the ability of US firms to do business in Mexico and compete fully with Mexican firms without permanent restrictions on market share, activities or geographic location. While Mexican brokerage firms are present and doing business in the US, US brokers are severely restricted in their ownership of Mexican brokerages and prohibited outright from opening branches in Mexico or becoming members of the Bolsa. Our system is premised on the notion that the participation of foreign firms in the US markets provides healthy competition and increases investment opportunities.

NAFTA moves in the direction of making it possible for US and Canadian firms to establish brokerage operations in Mexico. The benefit is not fully immediate however, since our firms will be subject to certain market-share limits during a lengthy transition period.

Also important to US securities firms were provisions ensuring their ability to engage in cross-border financial services, including the right to buy and sell financial products cross-border and the right to participate in and structure transactions in Mexico. Thus, an important feature of NAFTA is the standstill agreement in which the US and Mexico have agreed not to restrict the current level of cross-border financial services.

Of course, it remains to be seen whether NAFTA will deliver its full promise of opportunity for the financial services sector of each country but we needn't wait for its ultimate passage nor its full implementation to address a number of outstanding issues, including the differences in our broker-dealer net capital rules, access of US investment advisers and investment companies to the Mexican market, and the accounting differences I mentioned earlier. Our joint agenda is a very full one.

Let me close by saying that of all the truly fascinating issues I've been involved with at the SEC, I have enjoyed nothing more than the opportunity to work on issues with a connection to Mexico. The SEC is committed to assisting Mexican issuers in their efforts to come to the US market, and to increasing the access of US intermediaries to the Mexican market. Subsumed in these commitments are dozens of issues that we must work through together.

Thank you and I would be happy to answer any questions.