

**SEC HISTORICAL SOCIETY**  
**Transcript – Fireside Chat on SEC Office of International Affairs**  
**April 22, 2008**

**THERESA GABALDON:** Good afternoon, and welcome to the Fireside Chats of the Securities and Exchange Commission Historical Society, broadcast on [www.sechistorical.org](http://www.sechistorical.org).

I'm Theresa Gabaldon, Lyle T. Alverson Professor of Law at The George Washington University School of Law and moderator for the Fireside Chats.

The SEC Historical Society preserves and shares the history of the U.S. Securities and Exchange Commission and of the securities industry through its virtual museum and archive at [www.sechistorical.org](http://www.sechistorical.org). The museum's collections are free and accessible worldwide at all times. The virtual museum and archive, as well as the Society, is separate and independent of the SEC and receives no government funding.

We thank Pfizer Inc. for its continuing generous sponsorship of the 2008 Fireside Chat season. Its support, along with gifts and grants from many other institutions and individuals, make possible the growth and the outreach of the virtual museum and archive.

From now through next May, the Fireside Chats will be part of the Society's commemoration of the upcoming 75<sup>th</sup> anniversary of the SEC in 2009. Each chat will consider the distinctive history and work of one of the major SEC divisions and offices.

Our Fireside Chat today looks at the SEC Office of International Affairs. I'm delighted to welcome Michael Mann of Richards Kibbe & Orbe LLP, the first Director of the SEC Office of International Affairs, and Dr. Felice Batlan, Assistant Professor of Law, Chicago-Kent Law School. Dr Batlan is the curator of the virtual museum and archive's next gallery, "The Imperial SEC? - The SEC and International Securities Regulation," opening on December 1<sup>st</sup>. This chat will be linked to the gallery.

The remarks made by today's speakers are solely their own and do not represent the opinions of the Society. Our speakers cannot give legal or investment advice.

Before we begin our discussion, I'd like to encourage our listeners after the broadcast to access Michael Mann's oral histories interview in the virtual museum and archive, which he conducted with Wayne Carroll in June 2005. It's available in audio, podcast and transcript formats.

I want to start the chat today with a quote from Michael's interview. "None of the fears that this Office of International Affairs would take over and start dictating international policy ever came to pass. It was always collegially run; and in fact, the efforts to negotiate were so much more bolstered by the fact that when a foreign country would come in to sit with us, they'd be sitting with a senior enforcement official, a senior international official, somebody who knew the markets better than anyone else, and someone who knew the corporate side better than anyone else, that it really played to the SEC's greatest strengths."

Michael and Felice, welcome.

**DR. FELICE BATLAN:** Thank you.

**MICHAEL MANN:** Thank you.

**THERESA GABALDON:** I'm hoping that one of you could get us started today by describing in general terms, the mission of the OIA.

**MICHAEL MANN:** The mission of the OIA was to be a facilitator within the agency for dealing with international issues, helping to identify emerging international issues and working collegially with the rest of the agency staff in developing and formulating solutions for proposals that could be made for working on those kinds of issues.

**THERESA GABALDON:** Where would you find a facilitator like that on the organizational chart of the SEC?

**MICHAEL MANN:** The office reported to the Chairman as all the other offices did. The director was a member of the senior staff of the agency. So, if you view the organizational chart, it's essentially a flat organization with each office and division reporting independently up.

**DR. FELICE BATLAN:** What was the impetus for its creation?

**MICHAEL MANN:** It was a decision that was made by Richard Breeden when he first came to the Commission. When he first arrived, he spent about two weeks traveling in Europe, signed the Memorandum of Understanding with The Netherlands, signed the Memorandum of Understanding with the French and met with the British regulators to talk about Big Bang and what was going on in the British market. Richard Breeden, Linda Quinn and I were together on this trip, meeting with people. When we came back, Richard's reaction was that we need to have a centralized place for dealing with these panoply of issues. At that time, I was the Associate Director in the Division of Enforcement and most of the relationships that had been developed had really been built on the need to gather information internationally. We had gotten to know the regulators or the people who were emerging as regulators as a result of our proposing to them that they cooperate with us and share information with us. Richard Breeden came back and said that's the fulcrum, but it is not the entire game. We shouldn't be running what is essentially a marketplace that is internationalizing from simply an enforcement point of view; rather we should use enforcement as the tool for thinking about all these other issues.

**DR. FELICE BATLAN:** I would say one of the things that I find looking through the history is that, in fact, it was the question of raising capital and disclosure issues that you see in the '40s and the '50s, much more than any concern with enforcement issues. The SEC from a very early time, actually from the '30s onwards, was constantly meeting with foreign issuers as well as foreign governments. It's a slightly different model that comes out of the '80s.

**THERESA GABALDON:** Very interesting. Now you've mentioned the '80s, you've mentioned Richard Breeden, you've mentioned the Big Bang. Michael, we know that you were the first director, and you don't look all that old, what you're really talking about for getting the OIA up and running.

**MICHAEL MANN:** OIA was created in December of 1989.

**THERESA GABALDON:** That actually seems quite recent. Why do you think it took that long?

**MICHAEL MANN:** It wasn't until that period that the SEC was both identifying international issues that it had an interest in, looking outward, and also identifying issues that it had an interest in in terms of protecting its own market. If you think of markets as being purely territorial, the New York Stock Exchange was accessible by people manually putting orders in on it. There weren't electronic exchanges, there wasn't information as widely available electronically, there weren't international investors in the same way that there were as it began to emerge in the '80s. I wouldn't say it was the beginning. But I think that you saw a real coalescing around the idea that the American capital market was just beginning to burgeon at that point in terms of being a place that offered funding and capital, that offered a trading market that was liquid and well regulated, and was being recognized as a place to come.

Outside of the United States, there was universal banking. There weren't investment banks. When you raised capital, you were raising it by taking out loans. Your investors didn't have a stake in your success. They rather had a stake in getting their interest back. As we moved into an equity culture, that had a lot to do with internationalization going beyond the US borders, both from an investor point of view and from a capital raising point of view. The United States had the capital; it had technology investors; it had the expertise; it had the instruments. There were no listed options traded outside of the United States. That was something that had been innovated in the late '60s and it came to pass in 1975. So, there were a lot of things that came together in the '80s in addition to international interest that I think caused there to be a need for more coordination. One thing should be clear; international markets weren't discovered by the SEC in the 1980s. The SEC had other people that worked in the international area for years before OIA was created.

**THERESA GABALDON:** Specialists?

**MICHAEL MANN:** Not just specialists, but there were people in every department that dealt with particular international issues. In the Enforcement Division, there had been foreign corrupt practices cases. One of the earliest cases in terms of subpoena enforcement, the Artemisia case, was brought in the '40s. So the SEC had done international things throughout its existence. I think the real difference was the recognition that there was an opportunity and a need to have a more coordinated approach and for people to work on that coordinated approach.

**DR. FELICE BATLAN:** We have a slight disagreement here. I think it's slight, but I think there were quite a few historical precedents for the office. My argument is in fact that it's been there since the '40s as the United States emerged as the principal creditor nation after World War II. There was a man by the name of Walter Louchheim who worked for the SEC in the 1940s, who was actually the foreign economic adviser, and who coordinated foreign requests to the SEC about disclosure as well as participated in Bretton Woods and all the major conferences regarding international funding. He was the SEC's man.

**THERESA GABALDON:** To someone who was not all that familiar with the agency perhaps, it might occur to think, it's the State Department that traditionally has been responsible for representing US interests vis-à-vis foreign countries. Could one of you tell us something about relations with the State Department when OIA was in its infancy?

**MICHAEL MANN:** I think that you should start with what was the relationship of the SEC and the State Department.

**THERESA GABALDON:** Excellent.

**MICHAEL MANN:** The SEC always viewed itself as an independent agency, because that's what it is. The State Department is not an independent agency; it works for the President and represents the foreign policy of the United States. The SEC exists for the protection of investors on the US markets regardless of nationality, and as a result, the SEC has in its history brought a fairly large number of cases that from a foreign policy perspective may not have been the most convivial for the State Department. The State Department never really had any voice in that, at least during the years that I was there. It was a matter of seeking their advice, and they were experts in foreign policy, but they weren't experts in securities matters. When the SEC first started negotiating with foreign countries, there was a question - what is the relationship with the State Department? The conclusion was obviously when we went to a foreign country, we are officials of the United States even if we are independent and we needed to have the support and cooperation of the ambassadors and the embassies there, but that we were there for our discussions because these are not government to government discussions. These are discussions about securities markets.

There are some interesting things that shoot off from that. For example, the agreements that SEC negotiated were by choice memoranda of understanding; they are not agreements which required the consent of the Executive to be effective. There are actually two formal Executive Agreements that I'm aware of that the SEC has ever entered into, with the French and with the Dutch. At the time, the Dutch said, for us to be able to enforce what you want as an agreement, it must be passed as a law. So the MOU of 1989 with the Kingdom of the Netherlands is actually with the Kingdom of the Netherlands, and was enacted into law as the legislation for implementing it. It required the consent of the Executive to enter into it. It is regarded in the United States as a Memorandum of Understanding. But in Holland, it's regarded as an international agreement, and it's recorded as such at the State Department.

**DR. FELICE BATLAN:** If I can again provide a little sort of historical background, one of the wonderful documents I found the other day was a letter from Jerome Frank to Secretary of State Hull, speaking about Chinese securities and Chinese bonds that were being sold in the United States in 1939, which of course becomes the very famous Chinese Benevolent case. In the letter, Frank specifically says that we don't want to bring this case or proceed with investigations if this would cause any embarrassment to the State Department; that's the last thing we want to do. I don't have the response to that letter, but we can assume that State was on board with that.

I think the other interesting thing is certainly with World War II in the '40s, the State Department worked very closely with the SEC on a number of projects. State and Treasury at that time were fighting during the World War II period, and so the SEC in many ways found itself between both the State Department and the Treasury Department.

**MICHAEL MANN:** I don't want you to get me wrong here, the relationship was cordial with the State Department. It wasn't that they were standing for something different. It was a matter of how the process was driven, and the process was driven from the SEC, not from the State Department. The legislation that is used to implement a Memorandum of Understanding is legislation passed by Congress. It's not implemented or overseen by the

State Department or from a foreign policy point of view. The judgments that are required under the legislation are judgments by the SEC.

**THERESA GABALDON:** I think I'd like to follow up for a few minutes on the MOUs and then maybe come back and ask a little bit more about relations with the State Department and other intriguing things that popped out of your oral history, Michael. Could you tell our listeners a little about what a MOU is. You said a Memorandum of Understanding. Does that summon up more than meets the eye?

**MICHAEL MANN:** The SEC found itself in the following odd position. It had people trading on US markets who were believed to be violating US laws. It did not have the ability to subpoena records from outside the United States, and it needed assistance to be able to do that. That's something that only another country's regulator could do. It needed to find a method to request for that type of assistance.

When I first was working at the SEC in the early '80s, there was one treaty that had been negotiated with the government of Switzerland in 1973 and ratified in 1977. The negotiations had taken more than four years and it had taken three years to get it ratified. It had been used on a couple of circumstances, not terribly successfully. It was complicated; it had concepts in it like a dual criminality which meant that you could only ask for assistance in cases that could be brought in Switzerland and vice versa. Since Switzerland didn't have any securities laws, it was virtually meaningless when we used it in insider trading cases. We had to go to the Swiss Supreme Court and explain how insider trading was tantamount to theft and to build that record. That took years.

From the SEC's point of view, we didn't have years. We were trying to come up with something pragmatic. We wanted to have something that could be built on. I think the school of thought at the SEC was that the markets were evolving at a rapid rate, and if you didn't build a framework that could grow with the markets, that you really would be spending all of your time negotiating over political details that were important to someone but not terribly important to the markets.

When the SEC brought its first cases in 1981 against Swiss banks which had traded on behalf of people alleged to have purchased on inside information, the Swiss Bankers Association came forward and said, we've got to work this thing out. This is not good for business. The discussion began and the first question was: what is the right format? We had this treaty, but it was not clear that it was going to work, because insider trading was not against the law. We agreed to create an understanding, a meeting of the minds, that would provide a framework for going forward. Now in the Swiss case, it was an extraordinary understanding because they not only had to understand that they were going to assist the SEC but that they were going to assist them in things that weren't against the law in Switzerland. It required them to change their customer agreements to include an agreement with respect to this. It required all the banks to agree it. But that really provided the model. And at the time, we looked at this concept and asked, should we have a Memorandum of Understanding just on insider trading; shouldn't it be broader? The conclusion at the time was it would be great if it was broader, but that's not available today. Let's do what we can today and we'll approach the problem tomorrow. People like Ed Greene and John Fedders and Chairman Shad really provided the support for thinking a little less ambitiously, but being pragmatic enough to say we really are going to do something unique here, and negotiated and signed that Memorandum of Understanding.

From there, we took the concept of a statement of intent and used it to negotiate much broader understandings. At the same time, it was very valuable that it was a statement of intent, because we were dealing with members of the EU, who at that time weren't really sure if they could be negotiating these things or whether the EU had to do it? The MOU concept allowed us to say: look, it's not an international agreement, it's just a statement of intent between the two agencies.

What really mattered more than anything else was the commitment of people on both sides. And the negotiation of the MOUs had a lot to do with the words while they were being negotiated, but much more to do with the relationships that were created as a result of the negotiation. The philosophy was, if you have two like minded people who are both committed to building the markets and to enforcing the law as it's understood in this document on the markets, than you can do anything. The documents were really intended to be pragmatic, forward-looking, not an end in themselves, something that could be superseded at any time, and that would really start the ball rolling, more than anything else.

**DR. FELICE BATLAN:** Michael, what was the attitude of the Swiss, especially in terms of giving up long held confidentiality?

**THERESA GABALDON:** I thought someone must have been very persistent and persuasive.

**MICHAEL MANN:** I think there are two ways of looking at it. Both of them are probably right. First, I think the Swiss banks took a very pragmatic view which was, we have no interest in doing business for people who are violating the law, especially if it screws up our ability to do business in the United States. These were very serious banking entities that were truly international banks in their reach. They did not view themselves as for ever small private banks, but rather they were seeing the securities and other business develop in front of them. One of the defendants in the Santa Fe case was Citicorp. It was Citicorp Switzerland, but it was Citicorp, nonetheless. Union Bank of Switzerland, Swiss Bank Corporation, Credit Suisse. Credit Suisse at the time owned Swiss American Securities, a very large broker dealer here. There was a desire to enter the marketplace and to not have this really be an impediment. On the other hand, you had a Judge Pollock who had ruled in the St. Joe case about a month after the Santa Fe case was brought, another insider trading case, though somewhat smaller. He ruled in that case that it would be a travesty of justice to allow someone to trade in the US markets and then hide behind a shield of Swiss secrecy. This created two problems for the Swiss banks. One, it made them look like they were dishonest. And the second was, Judge Pollock said that if he didn't turn over the names, he would fine them \$50,000 a day. I used to say \$50,000 a day isn't very much, but when it's for eternity, it's really adds up. I think the banks looked at it exactly that way and said, there's got to be a better way.

**THERESA GABALDON:** You said earlier that the original MOU with Switzerland provided that the conduct that was subject to enforcement had to be a violation of Swiss law. Did that work the other way as far as US was concerned?

**MICHAEL MANN:** No, it actually didn't. What it did was it dealt with that problem. The treaty would have required it to be, to meet this dual criminality concept. What happened was in the Memorandum of Understanding, we negotiated a concept of insider trading. We negotiated very narrowly. It really only dealt with insider trading before takeovers. And it only dealt with getting account information for the 20 days or 40 days, I can't remember which,

preceding the takeover. It was focused on the cases that were being brought at the time. It was not focused on a broad international enforcement effort like you see today.

**THERESA GABALDON:** Say today, say Canada with an MOU with US asks the SEC to provide whatever it has about the conduct that violates Canadian law. Will the SEC necessarily and automatically do so?

**MICHAEL MANN:** I believe so. Certainly, under the MOU that exists there is no requirement that it be against US law. As long as it's consistent with US law. This was a fear when the agreements were first being negotiated - could you have a country say, we are investigating a political offence, but couch it under SEC language and get assistance investigating Americans who were doing something in their country, then obviously no.

What really is important for understanding the way MOUs are enforced is the way the agreements are implemented. When we went to write the legislation... because the way the securities laws were written, Section 21A of the Exchange Act, said, the SEC has the ability to subpoena records for any violations of this title. A violation of a Canadian law is not a violation of this title. Therefore the SEC actually didn't have the power to compel the production of evidence for an authority. What we did was very simple, in modifying the Exchange Act, we just broke 21A into two pieces, A(1) and A(2). A(1) was the domestic and A(2) said, shall not violate any provision of this title or something fundamentally the same. The words didn't have to match up, but the concepts did. As long as it was for investor protection in relation to securities and the securities markets, assistance would be available.

**THERESA GABALDON:** Very interesting.

**DR. FELICE BATLAN:** The legislation was passed, I think 1988, is that right?

**MICHAEL MANN:** '89.

**DR. FELICE BATLAN:** '89. So, in the agreements that had been previously negotiated, did the SEC actually have the power?

**MICHAEL MANN:** No. And if you read the two agreements that were negotiated with both Canada and Brazil, part of our strategy was to build on the enormous interest in Congress on expanding the SEC's enforcement power. Congressman Dingell had held hearings and had asked questions about how are you going to protect Americans against foreign fraud? There was always this idea that we needed this power. But it seemed like from an organizational standpoint, it was a heck of a lot easier to negotiate the agreement that would be implemented by the legislation than to write the legislation in the absence of a MOU. So when we went out, we went out to two countries that were very interested with having better cooperation with the SEC, Brazil and the Canadian Provincial regulators. We had been discussing with them, is there a way we could formulate our cooperation that's purely "American?" That, our markets are very similar, the SEC had provided a lot of assistance through the Inter-American Development Bank to the South American regulators, and that Commission had many of its laws were similar to American laws, and the Canadian regulation was similar in many respects. Is there a way that we could bring all that together in agreements that then could be implemented by the change in the law for the assistance?

If you read those two MOUs and frankly, virtually every MOU that was negotiated into the early '90s, we always built in this concept that we didn't require anybody to have the actual

power to implement the agreement as long as they committed to get it. And again, there was an excitement about building international markets at the time. Countries were committed to having real securities markets. They were emerging everywhere. Having a MOU was a sign, we believed, of credibility of the market and commitment to investor protection. I don't think that was just a one-sided view from the SEC. I think the foreign regulators also viewed it that way, that this showed that there was really an importance to international cooperation.

I can't remember if I spoke about this in my oral history, but after the Boesky case was brought, one of the things that we learned as a result of the case was that he had been involved with a man named Ernest Saunders in the UK who had been involved in manipulating the securities of a number of companies in the takeover of Guinness. Shortly after we signed the MOU in 1996, we invited the then-solicitor of the Department of Trade and Industry to come visit us, and said to him, look, here are all the records, here's the documents that show this manipulation. At the time, we thought, we were really helping him out. It turned out that Boesky had been a very small part of the manipulation. But nonetheless, I think, it demonstrated in a very graphic way how important cooperation could be.

**DR. FELICE BATLAN:** I'm curious about whether you had direct contact with the Inter-American Bank.

**MICHAEL MANN:** Yes. The SEC's relationship with the American Development Bank was really a longstanding one. John Evans, former Commissioner from the late '70s and early '80s and Irv Pollack, also a Commissioner and former head of Trading and Markets and Enforcement had very close working relationships with the Inter-American Development Bank. There had been an organization founded in the '70s called the IASC, the Inter-American Association of Securities Commission that ultimately became IOSCO, but that had been founded and funded by the Inter-American Development Bank. There had been a lot of aid given in terms of Commissioners having interest in what was going on in those countries. There are a whole group of SEC Commissioners from '70s and '80s, Al Sommer is another one, who throughout their careers were very interested and involved in the writing of securities laws. Al wrote the laws of Egypt, I believe, on an AID mission at one point. The US approach to regulation was really taken outside of the country by the Commission's professionals for a long time, and the IADB was very interested in doing that.

**DR. FELICE BATLAN:** Norman Poser in the 1960s spent a year in Brazil working to draw up their securities laws.

**THERESA GABALDON:** That no doubt has something to do with why they were similar. It did sound as though you were suggesting that the earliest MOU partners might have been selected because of their similarities. Is that really true?

**MICHAEL MANN:** As a negotiator, you would always prefer to negotiate the model at the front-end, and I think that we certainly recognized that we wanted to have a model off of which we could build. Brazil is not a common law country, but they certainly had the same approach to the securities laws. If you were trying to build in broad concepts with respect to offerings and fraud, it was easier to do it with a country that you had shared those concepts with. We had negotiated in 1986 a Memorandum of Understanding with the UK Department of Trade and Industry, that was much more limited, in part because the DTI, at the time, which was just setting up the SIB, was just setting up a platform for overseeing the trading but not the issuance of securities. It always contemplated that there would be a broader

understanding that would be negotiated, but they couldn't contemplate what they didn't have. It was one thing to be able to negotiate based on potential ability to provide assistance, but when you don't have the framework underlying that, it would be impossible. The SEC's view was very much one of, we will talk to everyone. And we will try to find a basis with everyone. So nobody was told, no, you're not ready.

**THERESA GABALDON:** That would have been a bit rude. But from some of the things you mentioned earlier, including the drafting of the Egyptian securities laws, it seems clear that some part of the OIA's business and even before that the SEC's business had to do with contributing to the learning curve in other countries. Felice, I know that you've been through a lot of the records here. Do you have anything more that you could tell us about the contributions of the OIA in general terms to learning in other countries?

**DR. FELICE BATLAN:** I think there's tremendous precedent for that. From the 1950s onwards, when much of the world is emerging from World War II, we see delegations from all over the world passing through the offices of the SEC. People from Pakistan, Liberia, you name the country, would stop and often spend quite a bit of time with the Commission. In addition, from the 1950s onwards, SEC members were sent out all over the world to work on different countries' securities regulation. In Liberia in the 1950s, there was an employee of the SEC who was lent out to the State Department to work in Liberia to draft their corporate code. My argument is that that was a great part of Cold War policy. It was part of winning the hearts and minds and of spreading capitalism through the world and a particular type of capitalism. It's not new in the '80s; I think the pace increases, but it had long historical roots. In fact, although I don't have documents on this, word is that Louis Loss was the first person to go to Pakistan to help draft the securities laws.

**THERESA GABALDON:** Felice and I am interested in seeing if Michael agrees that the SEC itself is sensitive to issues of foreign relations that may be peripheral to this mission of investor protection. And would you agree, for instance, that the ebb and flow of the Cold War affected SEC policy?

**MICHAEL MANN:** I was there at the end of the Cold War. I would articulate that markets are democratizing. Banking is less democratizing, because bankers decide whether they are going to make you a loan; they'll tell you the terms they'll make you the loan on and then you either take it or you don't. You pay, or they take your property. In securities markets, you make an offering of your securities and people decide if they want to buy it or not. They are buying into your success. They have equity; they don't just have a loan. They can choose based on the information that they get. It creates information flow; it creates openness. It doesn't work if you don't have openness; it doesn't work if it doesn't have fairness and accessibility. Bankers always trade on insider information in a loan market. That's the concept. They get the information and they decide if they want to take the risk. Nobody else gets that information because they're not making the loan. In securities markets, it's not that way.

While I was dealing with international matters at the SEC, the Berlin Wall fell, and that week, we were actually on our way to Hungary to open the Hungarian securities market, the first ringing of a stock exchange bell in Eastern Europe since the Russians had taken over. They invited us to come; we brought them a replica of the New York Stock Exchange bell and we rang it. It was a great celebration.

With Richard Breeden, Jim Doty and others at the Commission at the time, there was enormous excitement about the possibilities of bringing capital markets to these countries as a way of furthering innovation, as a way of helping them work their way out of the issues that they had. The finance minister of Russia came to meet with the Chairman of the SEC to talk about markets. It wasn't just in Europe and Eastern Europe, it was in Asian countries, Vietnam and other countries that had been under Communist rule. It was throughout Latin America which at that time was really booming. There was a huge request from everyone for technical assistance. I had a representative from a developed market come to me one day to complain that the SEC's international program on securities market regulation monopolized the trading of the emerging markets and, as a result, the U.S. model was being adopted worldwide.

It was broader than the question of just securities markets regulation. It was clearly in the interest of the United States to further its own system as opposed to other systems that existed for securities trading. It was in the SEC's self interest that the more they were like us, the better the cooperation, the better the possibilities for the markets intertwining. I think there was a recognition in a lot of different dimensions that building capital markets throughout the world was going to obviously increase competition but it also was going to increase the possibilities.

**DR. FELICE BATLAN:** I think we agree on that. You can see it through the '50s and the '60s very explicitly that US foreign policy was to provide technical assistance. Part of providing technical assistance was work on the markets as much as water reclamation. So it is a very explicit part of US policy. I think there is a change in the 1960s when money starts to dry up a bit, and the income equalization tax, which really changes the structure of the marketplace.

**THERESA GABALDON:** But I take it, to this day, it would still be the SEC that would be providing the funding for the assistance or does it come from some place else?

**MICHAEL MANN:** The SEC doesn't have any independent funding for the assistance. It teaches a couple of international institutes in the United States to which the participants pay their own way. It sends people out often paid for by US AID or other funding sources, the International Development banks.

**DR. FELICE BATLAN:** That was from the '50s or the '60s - you see US AID in fact supporting these trips and these missions.

**THERESA GABALDON:** You mentioned the International Institute on Securities Market Development. Who developed that idea, when did it get started, who attends? Can you tell us a little bit more about that?

**MICHAEL MANN:** The credit for that institute probably goes first and foremost to Richard Breeden, who, when he was Chairman of the SEC took an enormous interest in a number of the markets that were seeking assistance. At that time, a man named Leslaw Paga from Poland, who was an infectiously interesting man, and Ilona Hardy, the head of the Hungarian Securities Commission and the head of the Mexican Securities Commission were coming to the United States and talking about cooperation and talking about building their markets. Breeden really saw the opportunity and the chance to become something more than just a one-off provision of assistance. We announced that we would have this international institute as a concept long before we had any idea what we would actually do.

But as with all good ideas, we announced it weeks before we had to do it, so we didn't have much time to really get to worry about it. We told countries they could send two people. Richard was really insistent on only two, the idea being that you send your two best.

It was five or six years later, when we would go traveling to other markets, whether it was in the emerging markets like Thailand or in the former Soviet states, we would see the chairman of the securities commission and he would have the diploma and the picture of being handed the diploma from his graduation from the SEC International Institute on his wall, usually next to the letter of appointment from the president of the country. It sounds kind of corny, but the institute became something special for people. People met each other there, and so it became collegial among the markets. It was special because most of the chairmen of emerging markets had come there at some point in the first few years. It created for the SEC opportunities that were extraordinary in terms of really opening itself up and giving people access to the SEC staff to talk about the way the markets worked.

**DR. FELICE BATLAN:** Substantively, what did you actually teach at the institute?

**MICHAEL MANN:** Securities regulation according to the SEC. There was some discussion of philosophy; there was discussion of how you regulate a marketplace, what instruments were. It's an incredibly broad-based two or three week course that goes through every discipline that's operated within the SEC. It was taught by the division directors. It was pretty interesting to go down into a room of 150 delegates from 75 countries who were generally the best and the brightest of those countries trying to figure out how to build their capital markets, talk about yours and get their questions, and to really talk about how it worked and what their problems were and could you help. There were some things that were just sometimes absurd that you'd be asked. People would ask, what's a good way to organize so you can do your trade matching at the end of the day, how can you match your buys and your sells. But the markets would all come, the New York Stock Exchange, NASDAQ, other SROs. It was a magnet for bringing people in and it was to talk about the American way. It was very patriotic in one sense. In the other sense, it was incredibly international. And it was the SEC's.

**THERESA GABALDON:** You used the word patriotic. Felice, the title to your gallery includes the word "imperialism." In general, when people use that word, they're not necessarily being flattering. Could you tell us what the intent is there behind the titling?

**DR. FELICE BATLAN:** I would point out, it's the "Imperial SEC" with a question mark. The gallery will explore this as a question - was there an imperial nature to the SEC? From the very beginning, and by the 1940s when the SEC was only six years old, there was a belief that the American model was going to be the best model. There were a number of reports that were done in the 1930s about the London Stock Exchange by people who had been temporarily hired by the SEC to go to London. Those reports were too positive. The first report was rejected, and then the second report was rejected as too flattering to the London Stock Exchange and the way the exchange worked.

My question that I am really approaching with this gallery is, to what extent did it make sense for an American model of securities regulation to essentially be stamped across much of the world? What were the competing models? In what ways was the SEC willing to cooperate? What was the ideology behind cooperation when it did cooperate? What were the politics? I think the much broader question of the way in which the SEC, which we so often think of as a domestic agency, in fact was really very important in terms of larger

foreign relations issues. I bring all of those things as a question to this project, without conclusions right now, and I expect that I will never have conclusions. But as a historian, those are the frameworks that I am looking at in terms of telling a story about the SEC.

**THERESA GABALDON:** That's an excellent big picture rendition. I have an incredibly picky question. In securities regulation, I typically spend quite a bit of time on the definition of an offer, and that sort of thing. And every year, it gets a little more complicated. Do you think that the SEC and the OIA now have any interest in putting that fine an imprint on anyone else's securities regulatory system?

**DR. FELICE BATLAN:** I will say that from, the 1940s onwards, the SEC was taking a very strict approach to what it would consider to be an offering. We see that in connection with the foreign debt of quite a few European countries. Coming out of World War II, much of the foreign debt was in default at that point, and so it had to be reissued. The SEC considered this to be an offering. Often that was inconsistent with State Department policy which wanted to see this finished and done.

The International Bank for Reconstruction and Redevelopment, at the real heart of post war policy, was going to be truly an international bank that was supposed to stand above all countries. There was a tremendous issue that eventually arose as to whether those bonds issued by the bank and guaranteed by 47 different countries had to be registered with the SEC, with the SEC talking the position that they in fact had to. I think these issues of minutiae are quite important and I would say are quite consistent throughout SEC history.

**THERESA GABALDON:** Michael, do you agree with that?

**MICHAEL MANN:** I do. I come at it from a little bit different orientation because you have to look at the motivations that existed within the SEC for coming up with interpretations like that. The SEC has always viewed itself as a protector or overseer of a marketplace that is unique. The United States has more individual investors, more participation in its markets. People look to the markets as a way of getting a return but also in knowing that they'll get a return. I can remember talking to heads of central banks who would say, if I ask the man on the street, would you like to buy a security or would you like to buy a new washing machine, he'll say, I'll have the washing machine for 10 years, I don't know about this security. I mean convincing people that they should take a piece of paper or now, a dematerialized piece of paper, and that that they can return it and get money back and that they'll get money back in three days and that it will operate in a predictable way based on information that they have is something that would be a challenge for Houdini in some marketplaces.

The SEC has always looked, not just at the individual investor, but at the way the system works as being important. I think that there are principles that underlay a lot of what the SEC does. In this era where we are talking about principles based regulation, I believe there will be a principle that underlays all of what the SEC does, that extends to the way they regulate the markets, the way they write the rules and what they consider to be a security.

**THERESA GABALDON:** That's one of my favorite subjects. How about the definition for security, do you think that there is a real drive to uniformity there? Is it a major issue as far as what the SEC might be trying to accomplish to make sure that everybody thinks that orange grove parcels coupled with service contracts might be a security?

**MICHAEL MANN:** I'm not sure this is an international issue, but my own view is that the marketplace has become so highly liquid that there are so many different kinds of instruments that are available that people are looking at new ways of laying on and laying off risk that the definition of securities will broaden, and it will broaden I think constructively because it will make more capital available for investment. At the end of the day, when we're talking about politics, markets exist only for one purpose and that's to provide money to businesses to actually conduct themselves in the real economy. There are lots of people who make money trading but at the end of the day, the success of the market is judged by the success of what under lays the market. Having laws and keeping the regulation integrated with that very principle is what I think is really so important to what the SEC had.

To digress for one second, one of the things that the SEC got involved in when I was in OIA was looking at trade agreements. Who would ever think, the trade agreements, the securities regulations what does that have to do with that? Well, there was a real concern that someone might regard trade as that securities regulation as somehow impacting an unfair access to the US markets. We have GAAP, lots of people have GAAP. They're different, but they're still rules. If you have trade people running things, they could say, everything is regarded as a rule, we don't need to look at the particulars of it. It really mattered to the SEC as a trade matter that regulation be seen as distinct and unique. As a result, the SEC was involved in the negotiation of NAFTA, and was involved in the negotiation of the Free Trade Agreement for those exact same reasons.

**DR. FELICE BATLAN:** I find that fascinating, because that parallels of the SEC being involved with the negotiation at Bretton Woods. Again, it demonstrates that the SEC is very much a part of larger foreign policy.

**MICHAEL MANN:** When we went over to the Treasury Department and announced that we felt that we should be a member of the delegation going to talk about the Free Trade Agreement, we were not met with open arms or a lot of understanding. There was a lot of discussion about why would the SEC have an interest and, as an independent agency, how could it have an interest here because this is US government policy. But I think, at the time, there was really an openness because people were looking at markets as being important and it was clear the other countries negotiating wanted to talk about this. The SEC signed on as technical experts, not as members of the delegation.

**THERESA GABALDON:** We have just a couple of minutes left and I did want to run one last question by each of you quickly. What do you think OIA has not been able to do that it might be able to do if it had all the money in the world? What at this point should be on its agenda of things left undone?

**DR. FELICE BATLAN:** I think this goes to this much broader question of what's currently taking place in the markets and how in fact you truly regulate what is a global economy and a deeply interlinked economy. I think all of those issues in terms of what we understand to be a security, who are the regulators, does national regulation even make sense, relate to that broader issue.

**MICHAEL MANN:** I'm going to take sort of the contrarian view. The SEC is a domestic securities regulator and its mission is to protect the American securities market and to make the American securities market the best market in the world. I think the OIA creates the opportunities for improving that marketplace. It's not a function of how much money OIA has. It's a function of the collaboration that exists within the agency with a vision towards

what are markets going to be like in 15 years. If you would ask me how I would spend the money, I would ask the question, what do investors want, where do they want to invest, and how do we invest?

**THERESA GABALDON:** Thank you both so much for your comments and the perspectives on the work of the SEC Office of International Affairs. Although it is one of the newer offices of the SEC, it certainly has made an impact over the last two decades and it will continue to do so in the current and future global economy.

Our audience may be interested to know that the Fireside Chat is now archived in audio format in the virtual museum, so you can listen again to the discussion at any time. A transcript of the discussion as well as the chat in MP3 format will be accessioned to the Online Programs section in the coming months.

Again, I would like to thank Pfizer Inc for its generous support for today's program. Please join us again next month, on May 20<sup>th</sup> at 3:00 PM Eastern Daylight Time for our next Fireside Chat, this time discussing the SEC Regional Offices. My guests will be two former regional directors, Mary Keefe from Chicago and Michael Wolensky from Atlanta. Thank you again for being with us today.