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February 5, 2002

Mr. Shi Bin
China Securities Regulatory Commission
Jinyang Plaza
16 Jin Rong Streets
Beijing 100032
shibin@csrc.gov.cn

**Re: Rules on Examining and Approving Chinese-Foreign Cooperative
Joint Venture Securities Companies (draft version)**

Dear Mr. Shi:

The Securities Industry Association's¹ International Trade and Investment Policy Committee (the "Committee") is submitting this comment letter in response to the China Securities Regulatory Commission's (CSRC) request for comments on its draft version for "Rules on Examining and Approving Chinese-Foreign Cooperative Joint Venture Securities Companies" published December 12, 2001. The Committee welcomes the CSRC's draft regulations as an excellent first step in establishing the regulatory framework for the Chinese-Foreign joint venture securities company ("JV"). We believe the participation of foreign firms will help broaden and deepen China's capital markets, produce sophisticated products and services for China's investors, and increase the availability of capital at lower cost.

The Committee is pleased to have the opportunity to comment on the draft regulations and commends the CSRC for its efforts in developing an open and transparent consultation process. Over the past several years, a major Committee objective has been to encourage the improvement and enhancement of regulatory transparency in the global capital markets. We have attached the Committee's paper, which has been produced to outline guiding principles for transparent regulation. We strongly believe that the promulgation of these draft regulations

¹ The Securities Industry Association brings together the shared interests of nearly 700 securities firms to accomplish common goals. SIA member firms (including investment banks, broker-dealers, and mutual fund companies) are active in all U.S. and foreign markets and in all phases of corporate and public finance. The U.S. securities industry manages the accounts of nearly 80 million investors directly and indirectly through corporate, thrift, and pension plans, and generates \$358 billion of revenue. Securities firms employ approximately 760,000 individuals in the United States. (More information about SIA is available on its home page: <http://www.sia.com>.)

for public comment is the best avenue through which to promote the most fair and efficient markets for investors and issuers. We have brief comments on the specifics of the draft regulation below.

Comments on CSRC's Draft Joint Venture Regulations

Though we recognize that China's securities laws may impose certain limitations, we hope that in finalizing the regulations, CSRC will consider the following points:

Article 3

Article 3 permits JVs to engage in: 1) the underwriting of stock offerings (including RMB valued A stocks and RMB valued B stocks) and bond offerings (including treasury bonds and corporate bonds); 2) the trading of B stocks and bonds (including treasury bonds and corporate bonds); 3) the management of B stock and bonds (including treasury bonds and corporate bonds); and 4. other business as approved by the CSRC.

The success of the JV will be directly linked to its ability to support underwriting activities. In this regard, we respectfully suggest that the CSRC permit the JV to engage in proprietary trading in local shares that have been underwritten by the JV.

Further, we would appreciate elaboration of what "other business as approved by the CSRC" (Article 3.4) might be, and confirmation such businesses would be approved on a national treatment basis, so that some firms will not be favored in comparison to others. These services might include M&A advisory work, as well as other forms of consultation and advice.

Article 6

We believe that the reference in Article 6, to "Article 7," should be amended to "Article 8."

Article 7

Article 7.1 states that "the company's registered capital will be no less than RMB 500 million." There are several concerns here: a) the minimum capital should have some relation to a technical assessment of riskiness of the business, rather than a fixed-minimum amount; b) the minimum capital is significant enough to dissuade smaller foreign entrants, reducing the overall attractiveness of the JV vehicle, and stifling foreign direct investment.

Article 7.3 specifies that the "company will have at least 50 professionals...as well as necessary professionals in the fields of ..." Again, we believe the number of employees should be within the prerogative of the entity and related to the current business environment, as well as future expectations for growth, rather than a number fixed by regulators that might not reflect business conditions and/or opportunities.

Article 7.4 could be read as requiring separate management and control systems for each of underwriting, trading and management. This would not reflect international practice, would increase costs for doing business, and create difficulties in establishing the synergies that these businesses need. We believe this would substantially reduce the attractiveness of the JV vehicle.

Article 8

Article 8.1 provides that as part of the qualifications for being a JV partner, the SRO of that country should have entered into a MOU with the CSRC, and should remain in this relationship with the CSRC. This is contrary to international standards, and does not provide any regulatory assurances since all MOUs are different in design. Being registered with the home regulator should suffice. Moreover, the regulations do not specify what would happen to JV if the MOU were terminated.

Article 8.2 Another arbitrary qualification is that the JV partner has to have 10 years experience. This would exclude new start-up firms that have a global orientation, and might have been established to offer new products and services that are demanded by customers.

Article 8.5 A final qualification is that the JV partner must have "achieved significant business achievements in the international securities market." Many "domestic" firms are heavily capitalized, develop sophisticated products and services demanded by customers, and have long-standing track records. This is extremely arbitrary, and since the regulator wide scope to deny establishment based on an opaque standard. This Article seems to serve no prudential purpose, and would only serve to prevent "domestic" firms from entering China's market, limiting the amount of foreign capital, skills, and technology that could be transferred to China.

Article 11

Article 11 notes that the foreign JV partner must own a minimum of 25%, and no more than 33%. The 33% is consistent with the WTO commitment. We recommend that the CSRC permit the foreign JV partner, if needed for prudential reasons, to exceed the 33% limit upon request. We also believe that the foreign partner should be permitted to phase-in, over a several-year period, a majority ownership stake.

Articles 13 and 19

Article 13.6 and 19.8 It is not feasible to request a foreign regulatory body "...to certify that the JV foreign partner meets the requirements of Article 7.2 and 7.3."

We again thank the CSRC for giving us the opportunity to comment, and would be pleased to answer any questions you might have.

We look forward to working with you on this important issue.

Sincerely,



David G. Strongin
Vice President and
Director, International Finance

Attachment