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January 14, 2002

Mr. John F. Mogg
Director General
Internal Market Directorate General
European Commission
Rue de la Loi 200/Wetstraat 200
B-1049 Brussels, Belgium

Re: EU Financial Conglomerates Directive

Dear Director General Mogg:

It was a pleasure to meet you in Washington and have the opportunity to discuss a number of issues, including transparency, privacy and the progress of the EU's financial services action plan. On behalf of the Securities Industry Association, I am writing to express our deep concern about the EU's proposed Directive (the "proposal") on financial conglomerates. SIA members play an important role in Europe's capital markets and we share the Commission's overall objective to promote the safety and soundness of capital markets. However, we believe the provisions of the Directive that relate to third country supervision of financial entities in the EU with parent undertakings whose head office is outside the Community, in particular the provisions in Articles 14 and 25 (9), are inappropriate and should be removed from the proposed Directive.

Specifically, we are troubled by the proposal's requirement that EU supervisors of a regulated EU entity of ultimate parentage outside the EU must determine whether the group is subject to consolidated supervision that is "equivalent" to EU regulation. The possibility that, as a condition to continuing operations in the EU, a US-based group might be required to accept an EU supervisor as its global consolidated supervisor, is disturbing. The option, specifically contemplated by the proposal, that EU supervisors might, in the absence of an "equivalence" finding, require US-based firms to establish an EU-wide holding company for their European businesses is also troubling. Such a requirement could force firms that are managed on a global basis to organize inefficiently and with potentially significant ramifications to their existing risk management and other internal functions.

We question the apparent presumption underlying the proposal that any regulator would be able to design and apply consistent criteria that would take account of all or even enough of the characteristics of another regulatory environment to permit a single determination of "equivalence" or the like. We do not believe the issue of systemic risk is addressed by global consolidated supervision alone. In addition to capital adequacy, audit, public disclosure and

customer protection requirements, there are a range of other important considerations contributing to the safety and soundness of securities markets. Price transparency, stringent client suitability requirements, the efficiency and accuracy of clearance facilities, restrictions on the use of customer assets, limitations on the extension of margin credit, the market mandated practice of the daily margining of secured financing transactions, the discipline associated with mark-to-market accounting and the oversight role played by credit rating agencies all contribute to the protection of markets, market participants and clients. Each of these factors represents a complex subject matter, and all are important considerations in the development of any regulatory environment.

The provisions in the proposal allowing regulators in each EU country to question the “equivalence” judgments of the regulators in each other country, and more significantly, other regulators’ ability to apply or use alternative measures or techniques, would introduce an untenable element of uncertainty for global financial groups – as different supervisors may arrive at conflicting conclusions that are reconciled through a protracted legislatively prescribed procedural process.

For these reasons, we do not believe either the safety and soundness or the harmonious working of the global financial system is well-served by a legislative mandate – with its consequent inflexibility – to find “equivalence” or the like in foreign supervisory systems. Instead, we believe the concerns addressed by the proposal should be met through regular and flexible interactions among global regulators. As a result, we believe the provisions of the Directive that relate to third country supervision of financial entities in the EU with parent undertakings whose head office is outside the Community, in particular the provisions in Articles 14 and 25 (9), are inappropriate and should be removed from the proposed Directive if the Directive is to lay the groundwork for an integrated, safe and sound global capital market.

SIA's largest members play an important role in the EU capital markets, and are fully committed to the integration of Europe’s capital markets. But the direction of this proposal is most troubling, and we would very much welcome the opportunity to discuss our concerns with you as soon as possible. We urge the Commission to enter discussions with the SEC and Treasury on this critically important issue. Thank you very much for your consideration of our serious concerns. With best wishes, I am

Sincerely yours,

A handwritten signature in black ink, appearing to read "Marc", with a stylized, flowing script.

Marc E. Lackritz
President

c: J.C. Thébault
Patrick Pearson
Matthew King