



Securities Industry Association

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August 28, 2003

The Honorable John W. Snow
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Re: U.S. Securities Firm Access To China's Capital Markets

Dear Mr. Secretary:

In connection with your upcoming meetings with Chinese officials prior to the APEC meetings in Thailand, the Securities Industry Association¹ thought it might be helpful to set out its views on market access and regulatory transparency in China's capital markets for your use as background material.

China's WTO accession commitments gave U.S. firms some additional market access. For example, there are provisions for minority ownership in local securities underwriting, asset management firms, and advisory companies. Particularly noteworthy were China's commitments for the securities sector that include the grandfathering of existing activities and investments, national treatment, and the elimination of China's "economic needs test." In addition, China has recently given foreign investors expanded, but still limited, access to its A-share market.

However, China's accession commitments still leave foreign securities firms facing significant barriers to market access. China's WTO commitments provide U.S. securities firms with the opportunity to establish only minority-owned joint ventures, with ownership capped at 33 percent, a level that will be phased in by 2005. These joint ventures are limited to underwriting A shares, and underwriting and trading B and H shares and government and corporate debt. These strict limitations reduce the ability of U.S. securities firms to provide their clients with a full range of products and services. Moreover, such limitations impede the development of China's financial markets and curb economic growth. The securities industry's long-standing goal has been that China should permit foreign firms to establish securities companies in China, either through wholly-owned entities or other business ownership structures, having the authority to engage in the full range of securities activities. We urge Treasury officials to seek this fundamental commitment in the ongoing WTO financial services negotiations.

¹ The Securities Industry Association, established in 1972 through the merger of the Association of Stock Exchange Firms and the Investment Banker's Association, brings together the shared interests of more than 600 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. According to the Bureau of Labor Statistics, the U.S. securities industry employs nearly 800,000 individuals. Industry personnel manage the accounts of nearly 93-million investors directly and indirectly through corporate, thrift, and pension plans. In 2002, the industry generated \$222 billion in domestic revenue and \$356 billion in global revenues. (More information about SIA is available on its home page: www.sia.com)

SIA strongly believes that regulatory transparency is the *sine qua non* of open and fair capital markets. Achieving regulatory transparency in trade agreements has become a major industry goal; and we applaud your agency's achievement of ground-breaking commitments on regulatory transparency in the Chile and Singapore Free Trade Agreements. Transparent and fair regulatory systems play an integral role in the development of deep, liquid capital markets that attract market participants, increase efficiency and spur economic growth and job creation. Lack of transparency in the implementation of laws and regulations can seriously impede the ability of firms to compete fairly, and can often act in a trade-distorting manner similar to tariffs in the goods sector.

The China Securities Regulatory Commission's (CSRC) promulgation of draft Joint Venture Rules for securities firms illustrates this point. While we appreciate that the CSRC sought public comment on its joint venture regulations, we note that the proposed rules were issued on December 12, 2001, with a deadline for comment of December 31, 2001. In addition, we note that the CSRC's draft provisions for foreign equity investment in fund management companies were issued on December 21, 2001 with a comment deadline of December 31, 2001. Such truncated comment periods are clearly insufficient for complex new regulations, and particularly in cases where the regulations were specifically targeted at non-domestic firms.

China presents an enormous opportunity for the U.S. securities industry, and, similarly, we believe that the U.S. securities industry can contribute substantially to the development of China's financial markets. For this to happen, however, China must be willing to continue to liberalize its capital markets.

China's WTO accession commitments for the securities industry represent a first step toward the additional liberalization of China's capital markets. We are eager to continue working with you and your excellent staff to reduce and eliminate barriers faced by U.S. securities firms. Thank you for giving us the opportunity to provide input on this important topic.

Sincerely,

Marc E. Lackritz
President

c: John B. Taylor
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