



Invested in America

September 18 2015

The President
The White House

Dear Mr. President

Re: President Xi Jinping's official state visit and the US/China BIT

The Securities Industry and Financial Markets Association (SIFMA), and its members, look forward to the upcoming State visit of President Xi of China to the United States. The US-China economic and commercial relationship is one of the most important in the world and we applaud you and your Chinese counterparts for your efforts to strengthen it further.

SIFMA strongly encourages the Administration to seek progress during this visit towards a high quality US-China Bilateral Investment Treaty (BIT). The BIT represents a historic opportunity to significantly strengthen the economic relationship between the United States and China to the benefit of both economies. Securing a comprehensive agreement will present the United States with substantial new business and job opportunities and ensure the US market is positioned to benefit from growing international investment from China. The Engage China coalition of which SIFMA is a member has noted a high quality US/China BIT creates a similar environment for positive change as did China's 2001 accession to the World Trade Organization. Since China's accession, US exports to China have grown six-fold.

For the US financial services industry, and its customers, much is at stake. While we welcome the progress on financial reform that has been made in China, evidence on the evolution of China's banking sector highlights that barriers remain in China's financial market. While China's banking sector overall has almost tripled in size since 2007, the market share of foreign banks has actually declined, standing at less than 2 percent in 2013¹. A similar

¹ Source: EY, "Future directions for foreign banks in China 2014",
[http://www.ey.com/Publication/vwLUAssets/EY-foreign-bank-china-report-2014/\\$FILE/EY-foreign-bank-china-report-2014.pdf](http://www.ey.com/Publication/vwLUAssets/EY-foreign-bank-china-report-2014/$FILE/EY-foreign-bank-china-report-2014.pdf)

picture exists in China's capital markets: foreign investors currently hold only 2 percent of the onshore bond market and just 3 percent of the market capitalization of equity shares². At the same time, costs have increased for foreign entities. Chinese structural and regulatory provisions underlying these distortions do more than restrict competition from US financial institutions; they also run counter to China's own economic and commercial objectives: for example, elimination of discriminatory practices would contribute to China achieving its stated goal to develop as a global financial services hub.

The BIT presents multiple opportunities to expand market access, level the playing field, encourage regulatory changes to improve transparency and otherwise remove unnecessary burdens associated with doing business in China. For example, the existing 49 percent ownership cap in securities and other parts of the financial sector confines US and other foreign firms to joint venture relationships which are further limited by the narrower scope of activities allowed under a joint venture structure. Discriminatory practices are pervasive in other areas, for example, with respect to licensing and equity caps in the interbank bond market and participating in the economy as an institutional investor.

Moreover, important components of a high-standard BIT are the investor protections it affords and the effective remedy it provides to adjudicate disputes. Financial institutions are subject to the same political, legal and regulatory risks as US investors in other sectors. It is crucial, therefore, that the BIT extends to all investors, including financial institutions, the same strong legal protections and independent enforcement mechanism – investor-state dispute settlement.

Investment agreements such as the US-China BIT must also recognize the critical importance of the free-flow of data to the global economy. Financial services companies are using data to improve efficiency, develop new products and services, and to deliver those products and services to their customers and clients on a global network without regard to national boundaries. The BIT must therefore ensure that financial services companies cannot be required to “localize” data infrastructure, including storing and processing data within a country and maintaining in-country servers and data centers.

² Source: Peterson Institute for International Economics, “[Equity Series Part 6: The Equity Market's Role in Cross-Border Capital Flows](http://blogs.piie.com/china/?p=4443)”, <http://blogs.piie.com/china/?p=4443>

Finally, in 2016, China will chair the G20. We believe that the increased global profile of China's economy and capital markets should be met with a corresponding reduction and elimination of discriminatory barriers to foreign firms. The BIT offers an excellent vehicle through which to do some of this.

China has already taken some welcome steps towards market openness. At the 2015 Strategic & Economic Dialogue, it pledged measures to open up and strengthen the role of its capital markets including committing to: expanding vehicles for foreign investment in its securities markets; allowing foreign financial services firms to play a greater role in fostering development of the bond market; and allowing 100 percent foreign-owned investment management firms to engage in private fund management. We hope that the State visit will provide an opportunity to take stock of progress towards these commitments and, beyond that, the BIT can be used to build further positive momentum in this direction.

We wish you all the best for this important visit and SIFMA stands ready to participate in any way which may help further our shared goals for strengthening the US economy and assuring a safe and level playing field for US businesses and investors globally.

A handwritten signature in blue ink, appearing to read "Ken Bentsen", with a long horizontal flourish extending to the right.

Kenneth E. Bentsen, Jr.
President & CEO

Cc:

The Honorable Jacob Lew, Secretary of the Treasury, United States
Department of the Treasury

The Honorable Nathan Sheets, Under Secretary for International Affairs,
United States Department of the Treasury

The Honorable Ambassador Michael Froman, United States Trade
Representative

Ambassador Max Baucus, United States Ambassador to China

The Honorable Catherine Novelli, Under Secretary of State for Economic
Growth, Energy and the Environment, Department of State

Caroline Atkinson, Special Assistant to the President for International
Economics, Trade and Investment, National Economic Council.

Michael Hirson, United States Treasury Financial Attaché in Beijing, US
Embassy in Beijing, China