

**WRITTEN STATEMENT OF
THE SECURITIES INDUSTRY ASSOCIATION
TESTIMONY BEFORE THE FULL COMMITTEE
OF THE HOUSE COMMITTEE ON WAYS AND MEANS**

**"UNITED STATES-CHINA ECONOMIC RELATIONS AND CHINA'S ROLE IN THE
GLOBAL ECONOMY"**

OCTOBER 30-31, 2003

The Securities Industry Association¹ is pleased to submit this testimony about China's capital markets and the opportunities for U.S. firms, our clients, and the U.S. economy to do business in China. Our testimony will focus on the goals and objectives of the U.S. securities industry in our growing relationship with China's economy. Consequently, this testimony highlights some key issues related to China's capital markets. SIA is currently in the initial stages of developing a more detailed paper on market access barriers to China's capital markets faced by U.S. securities firms.

SIA has long supported more open, fair and transparent markets, and has strongly advocated liberalization in U.S. multilateral and bilateral trade discussions - including China's WTO accession talks. The economic benefits of financial services sector liberalization reverberate throughout the world from widespread increased opportunities created by new entrants, innovative products and services, and capital markets with greater depth and efficiency. In the global economy, open and fair markets are essential to ensuring that markets operate efficiently so that investors can easily and quickly buy and sell shares across borders, while businesses can access capital at the lowest price. The international financial system has been a major and contributing factor in the marked increase in living standards of those countries that participate in it.

China's WTO accession commitments for financial services, and more specifically for the securities industry, demonstrated a reluctance to open this sector fully to foreign competition. We believe China should improve and accelerate its financial sector reform so that it will have the financial tools necessary to sustain and improve the quality of its economic growth.

Expanding Business Opportunities for U.S. Financial Services Firms

Many of SIA's leading member-firms have identified China as the largest single emerging market opportunity, with some measures indicating that China will be the world's largest economy within the next 40 years.² Analysts also predict that China will invest more than \$1 trillion in transportation and communications infrastructure improvements and energy-related capital equipment over the next decade. In addition, China will accelerate its privatization program, and hopes to encourage foreign investors to participate.³

Moreover, China's nascent pension system must deal with a rapidly aging population. In 1995, the percent of China's population over 65 was 6.1 percent; it is projected to reach almost 14

percent by 2025. World Bank estimates indicate that by 2030, the Chinese pension system will total \$1.8 trillion. Already, several U.S. and other foreign firms have begun to capitalize on the enormous opportunities in China's retirement market by signing technical assistance agreements with local fund management companies.

China's capital markets have grown significantly over the past decade and helped finance the country's domestic growth. China did not have a functioning stock market until 1991. By 2002, China's equity market capitalization totaled \$463.1 billion and was the largest emerging stock market in the world. Impressively, between 1995 and 2002, China's stock market capitalization soared by about 40 percent per annum, increasing the value of Chinese stocks to 19 percent of all emerging markets. China also boasts 1,235 listed companies, exceeded in the emerging markets only by Korea (1,526) and India (5,650).

China's domestic capital markets will benefit from the entry of U.S. securities firms and their technology, capital, innovative products and services, and best practices. As local firms prepare for this increased competition, they will adopt new technologies and improve the quality of products and services they offer. More competitive and efficient capital markets will also improve the allocation of capital to borrowers and users, facilitate the hedging and diversifying of risk, and assist the exchange of goods and services. As China's capital markets develop, Chinese firms will be better able to raise low-cost capital and support job creation. Since financial markets are inextricably linked to increased investment and economic growth, strengthening China's domestic capital markets will help to alleviate the significant financing constraints that Chinese firms currently face.⁴

China's private and public sectors alone cannot mobilize the massive financial resources, advice and expertise that are necessary to sustain its economic growth. Much of the infrastructure development will, by necessity, be funded through foreign sources, and this opportunity has generated substantial interest by the U.S. securities industry. Indeed, despite difficulties entering and operating in China, numerous U.S. securities firms have established offices in China and have participated in China's international securities offerings.

Chinese issuers, however, will have to improve their disclosure and corporate governance standards to meet the demands of the international investing community. Indeed, the China Securities Regulatory Commission has already promulgated regulations to raise the quality and level of disclosure. Stricter disclosure of financial information is now required for prospectuses, and companies must ensure they have independent directors. These rules will not only help China access foreign capital, but they will also set the foundation for building a more robust retail and institutional investor base in China.

China's WTO Commitments For Foreign Securities Firms

China's WTO commitments gave U.S. firms some greater market access. The commitments from China for the securities industry represented a first step upon which to pursue additional liberalization of China's capital markets. For example, there are provisions for minority ownership in local securities underwriting, asset management firms, and advisory companies. Particularly noteworthy are 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."⁵

CHINA'S WTO COMMITMENTS TO FOREIGN SECURITIES FIRMS

- Participate directly in B share transactions*
- Eligible for special membership on Exchanges*
- Establish securities joint ventures (1/3 ownership) to underwrite A shares, and to underwrite and trade B and H shares and government and corporate debt
- Establish funds management joint venture (1/3 ownership*, 49 percent after three years.)
- Grandfather existing investments
- Eliminate economic means test
- Guarantee national treatment

**upon accession*

In addition to its WTO commitments, China is taking other steps to open its markets. These include allowing foreign firms to list and issue local currency (renminbi) shares, and the establishment of foreign investment venture capital firms.

However, there remain significant market access barriers. SIA strongly urges China to make the following additional commitments - whether in the context of - the ongoing WTO financial services discussions, or in other trade forums:

Market Access

Permit foreign firms to set up a securities company in China, either through a wholly-owned entity or other business ownership structure, with power to engage in a full range of securities activities, including underwriting, secondary trading of government and corporate debt and A shares, etc. Firms should have the right to establish offices without geographical limitation. Similarly, permit foreign asset management firms to manage money for Chinese investors, both retail and institutional, as well as to sell internationally diversified mutual funds to individuals through qualified local distributors.

Qualified Foreign Institutional Investors (QFII)

China has taken steps to open its A-shares market to foreign investors adopting rules for Qualified Foreign Institutional Investors. Current QFII requirements are onerous, however, and limit the utility of the program. For example:

- a) the requirement that a QFII commit at least \$50 million equivalent (currently more than 1% of total market capitalization) in a special QFII account;
- b) the limitations on QFII ownership, both individually and in the aggregate; and
- c) the requirements that the principal amount in the QFII account remain in the account for at least one year (three years for closed-end funds), with subsequent remittances required to be

approved by the State Administration of Foreign Exchange and principal withdrawal only permitted in stages.

We urge China to continue the process of making its securities markets more attractive to investment by abolishing the QFII regime in favor of a forward-looking policy encouraging unimpeded investment in the domestic market. We believe this would almost certainly result in greater foreign investment in China's securities markets, adding to the depth and breadth of trading in those markets and resulting in increased capital available to Chinese issuers.

In addition to market access constraints, the lack of a strong legal foundation in China further complicates the ability of U.S. firms and their clients fully to participate in the Chinese capital markets. An unwelcome level of regulatory risk characterizes China's business climate and acts as a severe tax on capital. A PriceWaterhouseCoopers' report measured the adverse effect of opacity on the availability of capital in 35 countries.⁶ Not surprisingly, the report ranked China at the bottom with an opacity score equivalent to an additional 46 percent corporate income tax.⁷ China also placed last in legal and judicial opacity, as well as regulatory uncertainty and arbitrariness.

If China is to sustain long-term economic growth and continue to attract the foreign capital it needs, it must improve its legal infrastructure. Greater transparency will be a critical part of improving the rule of law in China. Transparent and fair regulatory systems play an integral role in the development of deep, liquid capital markets that, in turn, attract market participants, increase efficiency, and spur economic growth and job creation. A high level of transparency also ensures that foreign firms are accorded national treatment. Perhaps most importantly, transparency enhances investors' trust and assists international capital flows. Lack of transparency in the implementation of laws and regulations can seriously impede the ability of securities firms to compete.

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 on 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.

SIA has published a paper (Appendix I) that serves as a blueprint for a transparent regulatory regime. The paper underscores the key guiding principles of fair and transparent regulations as follows: 1) rules, regulations and licensing requirements should be considered and imposed, and regulatory actions should be taken, only for the purpose of achieving legitimate public policy objectives that are expressly identified; 2) regulation should be enforced in a fair and non-discriminatory manner; 3) regulations should be clear and understandable; 4) all regulations should be publicly available at all times; and 5) regulators should issue and make available to the public final regulatory actions and the basis for those actions, in order to enhance public understanding thereof.

We also note an American Chamber of Commerce in China White Paper⁸ that commented on the importance of regulatory transparency. The Chamber notes that while progress has been made, "[f]oreign investors are adversely affected by the promulgation of regulations without prior notice, opportunity to comment, or contemporaneous issuance of implementing regulations." Moreover, according to the Chamber, "At present, laws and regulations are only sporadically released in draft form for public comment, and after promulgation are identified only by their name and, in many cases, chronological and numerical sequence by issuing department. This deprives foreign investors, traders, and other interested parties of opportunities to comment, and makes keeping track of existing laws and regulations very cumbersome and expensive." Also rules and regulations on bankruptcy and intellectual property rights, among others, must be clear, fairly applied and enforceable. The development of such rules and regulations will attract and improve access to financing.

Continued liberalization of China's capital markets has clear benefits for China and the global economy. It is a long-established U.S. policy to promote economic growth through open financial services markets. Global economic integration facilitates the importation of capital and intermediate goods that may not be available in a country's home market at comparable cost. Similarly, global markets improve the efficient allocation of resources. Countries gain better access to financing, and the suppliers of capital - institutional investors or individual savers - receive better returns on their investments.

Finally, open, fair markets help increase living standards. We look forward to working with the Congress and the Administration to further expand the U.S. securities industry's access to China through the use of bilateral and multilateral trade forums.

PROMOTING FAIR AND TRANSPARENT REGULATION

DISCUSSION PAPER

I. Setting The Foundation for Open and Fair Securities Markets

Deep and liquid capital markets are the essential building blocks of today's economy, supplying the funds for economic growth and job creation. The firms that participate in the markets price risk, allocate capital, provide investors with advice and investment opportunities, and supply the liquidity needed to make markets work efficiently.

Just as capital markets underpin economic growth and job creation, transparent and fair regulatory systems are essential to the development of deep and liquid capital markets. A system of regulation that is transparent to market participants instills the confidence needed to attract both the suppliers and users of capital to make the best use of the markets.

Governments, regulators and the international financial institutions have undertaken substantial projects designed to improve the quality of the financial systems world-wide. Attention is now focused on building fair and transparent regulatory systems - grounded in the principles of market integrity and investor protection - to oversee those markets. Consistent with those goals and the principles of prudential regulation, discriminatory practices and considerations, such as

the nationality of individuals or the place of origin of firms, should not be permitted to influence regulatory policies or actions.

This paper is based on the assumption that a country's relevant laws should promote fair and transparent regulation. The principles outlined in this paper are not intended to prevent a regulator from taking measures for prudential or legitimate public policy reasons recognized under the World Trade Organization, including protecting investors, ensuring that markets are fair, efficient and transparent, and reducing systemic risk.

A consensus view, supporting the development of active, sound and efficient markets based upon established principles for capital market regulation, is rapidly emerging. In September 1998, the International Organization of Securities Commissions (IOSCO) issued a paper entitled "The Objectives and Principles of Securities Regulation" that urged the adoption by all regulators of processes and regulations that are:

- consistently applied;
- comprehensible;
- transparent to the public; and
- fair and equitable.

The International Monetary Fund ("IMF") is developing a broad-based "Code on Good Practices and Transparency in Monetary and Financial Policies" that complements IOSCO's work.

The securities industry, which today operates on a global basis, supports the IMF and IOSCO efforts to establish principles of fair and transparent regulation. The securities industry strongly believes that by making regulation and the operation of regulators accessible and transparent and by treating foreign and domestic licensed market participants fairly and equitably, governments, regulators and international financial institutions will promote the best markets for investors throughout the world.

Building on the emerging regulatory consensus, this paper provides the views of the securities industry on fundamental regulatory principles and practices that will provide a fair and level playing field for market participants. It also sets the foundation for building strong and vibrant markets worldwide. Moreover, we strongly believe that the principles promoting fair and transparent markets are broadly applicable to all financial services firms participating in the global capital markets. In this regard, we are actively seeking the support of financial services firms worldwide in promoting these principles.

II. Guiding Principles of Fair and Transparent Regulation

A. Rules, regulations and licensing requirements should be considered and imposed, and regulatory actions should be taken, only for the purpose of achieving legitimate public policy objectives that are expressly identified, including, for example, investor protection, maintaining fair, efficient, and transparent markets, and reducing systemic risk.

B. Regulation should be enforced in a fair and non-discriminatory manner.

1. Regulations and regulators⁹ should not discriminate among licensed market participants on the basis of the nationality or jurisdiction of establishment of the shareholders of a market participant or the jurisdiction of establishment of any entity that owns or controls the equity or indebtedness of a market participant.

2. The relationship between a regulator and a licensed market participant should be governed by the standards set forth in relevant rules and regulations, and should not be subject to political or other extraneous or improper considerations.

3. The introduction of new securities products and services by firms should be governed by the standards set forth in relevant rules and regulations

C. Regulations should be clear and understandable. Clear and understandable regulations and rulings provide market participants with the predictability and necessary knowledge to comply with regulations. Opaque or ambiguous regulations and rulings create uncertainty among investors and licensed market participants.

D. All regulations should be publicly available at all times. All regulations should be made, and at all times remain, publicly available, including requirements to obtain, renew or retain authorization to supply a service. Disciplinary actions should not be taken based on violations of regulatory standards that were not in effect at the time the relevant activity took place.

E. Regulators should issue and make available to the public final regulatory actions and the basis for those actions, in order to enhance public understanding thereof.

III. Rulemaking and Implementation

A. The rulemaking process

1. *Regulators should utilize open and public processes for consultation with the public on proposals for new regulations and changes to existing regulations.* A reasonable period for public comment should be provided. Any hearings at which formal promulgation or adoption of new regulations or changes to existing regulations are considered, if open to a member of the public, should be open to all members of the public. Regulators should not take arbitrary regulatory action against those who participate in the consultation process.

2. *In considering whether rules, regulations, licensing requirements or actions are necessary or appropriate, regulators should also consider, in addition to the protection of investors, whether the action will promote efficiency, competition and capital formation.*

B. Communicating and implementing new rules

1. *New rules and regulations that provide advice for market participants should be made available to them and the public in a timely and efficient manner.* Such changes should be made available, in writing, by electronic media or other means of distribution so that all market participants have reasonable access to such material.

2. *Market participants should be given a reasonable period of time to implement new regulations.* The effective date of a new regulation should provide a reasonable period for market participants to take the steps needed to implement the new regulation under the circumstances.

C. Interpretations of rules

1. *Regulators should establish a mechanism to respond to inquiries on rules and regulations from market participants.* The titles and official addresses of the relevant regulatory offices should be provided.

2. *Interpretations and the grants or denials of regulatory relief or exemptions should be made available to the public.* Such interpretations, relief or exemptions should generally apply or should be applied upon proper request, to substantially similar licensed market participants and new products. Under limited circumstances it may be appropriate to delay the publication of individual grants of relief for reasonable periods of time to address legitimate competitive concerns.

IV. Licensing and New Product Procedures

A. Procedures for licenses and introduction of new securities products and services.

1. *Criteria governing licensing of firms and the introduction of new securities products and services by firms should be in writing and accessible, and should be the basis on which decisions are made.* All regulations and related explanatory materials governing the consideration and issuance of licenses to firms and the introduction of new securities products and services by firms should be reduced to writing and made publicly available to potential applicants upon request. No licensee should be denied a license, and no new securities product or service should be prohibited, on the basis of any factor not identified in such written regulations or explanations.

2. *The introduction of new securities products and services by firms should be governed by the standards set forth in relevant rules and regulations.* Where particular requirements are established in connection with the introduction of a product or service, such requirements should govern the introduction of complying products and services. In order to promote flexibility and efficiency in the capital markets, such standards and requirements should enable firms, to the maximum possible degree consistent with principles of prudence and investor protection, to introduce complying new products and services on the basis of sound internal procedures for compliance without additional regulatory review.

3. *Information supplied by applicants as part of an application process should be treated confidentially. Such information should be disclosed only in accordance with existing rules permitting public disclosures, such as those that may be triggered by the granting of a license or product approval.*

4. *Regulators should promptly review all applications by firms for licenses and required product or service approvals and should inform the applicant of any deficiencies.* No application for a

license or approval that provides all information required pursuant to regulation and is made in good faith by an applicant that meets required criteria should be refused review and action by the relevant regulator. Action on all applications received should be taken within a reasonable period. Licenses should enter into force immediately upon being granted, in accordance with the terms and conditions specified therein.

5. Where an examination is required for the licensing of an individual, regulators should schedule such examinations at reasonably frequent intervals. Examinations should be open to all eligible applicants, including foreign and foreign-qualified applicants.

6. Fees charged in connection with licenses and the introduction of new securities products and services should be fair and reasonable and not act to prohibit or otherwise unreasonably limit licensing requests or the introduction of new product and services.

B. Licensing of entities and their employees

1. An applicant's competence and ability to supply the service should be the criteria used for licensing entities and employees. The terms and conditions for granting licenses should be made explicit, including education, experience, examinations and ethics. Procedures and criteria should not unfairly distinguish between domestic and foreign applicants. In addition, there should be no quantitative limits on the number of licenses to be granted to a particular class of market participants who are otherwise qualified.

2. When imposing licensing requirements, regulators should endeavor to give consideration to comparable testing or other procedures confirming the qualifications of an applicant that already have been completed in another jurisdiction. The ability of qualified and experienced market professionals to provide services in a foreign jurisdiction may be promoted where testing or other procedures used in the professional's home jurisdiction may satisfy all or part of the foreign jurisdiction's licensing requirements.

C. Denials of licenses and product and service approvals

1. When denying an application for a license or a required securities product or service approval, regulators should, upon request, provide an explanation for that action. Any total or partial denial of any application for a license or a required new product or service approval should, upon request, be accompanied by a written statement of explanation from the relevant regulator detailing the reasons for the denial, including the particular requirements of the regulations governing the issuance of such license or required approval that were not satisfied. Applicants should be given the opportunity to resubmit applications or to file additional or supplementary materials in support of their applications.

2. Applicants should be afforded meaningful access to administrative or judicial appeal of a denial of a license or a required product or service approval (or failure to act on an application).

3. *An appeal of a denial of a license or a required product or service approval should be decided within a reasonable time period after the appeal is filed. An applicant's decision to pursue an appeal (whether formal or informal) should not prejudice its existing licensed operations.*

V. Implementation of Regulatory Standards

A. Inspections, audits, investigations and regulatory enforcement proceedings¹⁰

1. *All inspections, audits, investigations and regulatory enforcement proceedings should be conducted pursuant to established regulatory and judicial standards and should not arbitrarily discriminate based on improper or other extraneous criteria like nationality.*

2. *All inspections, audits, and investigations should be conducted in a manner that does not impinge on the rights of licensed market participants and their directors, officers and employees.*

3. *A regulatory authority¹¹ should not publicly disclose the fact that it is conducting an enforcement related inspection, audit or investigation of a particular entity until a determination has been made by the regulatory authority to take remedial or other enforcement-related action, unless otherwise subject to a legally enforceable demand unless made in connection with a generally applicable disclosure requirement imposed on the entity. The inspection, audit or investigation should be conducted at all times with due attention to the privacy and confidentiality concerns of all affected parties, including licensed market participants, their directors, officers, employees, and clients.*

B. Regulatory proceedings to impose a sanction

1. Notice and opportunity to be heard

a. *Notice of applicable law and regulation.* A regulatory proceeding to impose a sanction should only be instituted based on the violation of laws or regulations that were in effect at the time that the relevant activity occurred and where the subject of the proceeding had timely notice of them.

b. *Notice of determination to take action.* Licensed market participants should be notified in a timely manner both when: 1) a determination has been made to hold a regulatory proceeding concerning the conduct of that participant; and 2) a decision in, or on the status of, that proceeding has been made.

c. *Opportunity to be heard.* Except in situations where emergency temporary relief is necessary, in all regulatory proceedings, licensed market participants should be given a reasonable opportunity to be heard and to submit, on the record, position papers and other documentary evidence.

2. Representation by counsel and access to evidence

a. *Right to legal counsel.* The subjects of a regulatory proceeding should have the right to have legal counsel of their choice represent them in all meetings with, and interviews by, regulatory

authorities. A regulatory authority should not suggest or imply that the attendance of counsel will in any manner alter the character of the proceedings being conducted, the level of supervisory review to be undertaken, or the manner in which the regulatory authority carries out its functions.

b. *Access to evidence.* The subjects of a regulatory proceeding should, upon request, be permitted reasonable access to all documents and records that are relevant to the subject matter involved in the pending regulatory action. Documents and records to which access is denied based on privileges generally recognized in such proceedings should not be admissible in evidence in such regulatory proceeding.

c. *Burden of proof.* The burden of proof to demonstrate that a licensed market participant has not conducted its business in accordance with the relevant law and regulation should rest with the regulatory authorities.

3. Sanctions and Appeals

a. *Sanctions.* Sanctions by a regulatory authority should be imposed in a fair and nondiscriminatory manner based on the relevant facts and with an effort to treat similarly situated persons and entities in a similar manner. The basis for any decision to impose sanctions by a regulatory authority should be explained in a writing that is made available to the subjects of the proceeding.

b. *Appeals.* The subjects of a regulatory proceeding should have available to them a forum for appealing the decisions rendered and sanctions imposed. The body considering a particular level of appeal should be separate from that which made the decision or imposed the sanction that forms the basis of the appeal. Appeals to a regulatory authority should be decided in a timely manner and appeal determinations should be explained in a writing that is made available to the subjects of the proceeding.

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Footnotes:

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.

2. Goldman Sachs' Global Economics Weekly, Issue 03/34, 1st October 2003
3. China Accelerates Privatization, Continue Shift From Doctrine, Philip P. Pan, Washington Post, November 12, 2003.
4. Financial Liberalization and Financing Constraints: Evidence From Panel Data on Emerging Economies, Luc Leaven, World Bank, October 2000,
[http://wbln0018.worldbank.org/html/FinancialSectorWeb.nsf/\(attachmentweb\)/wp002467/\\$FILE/wp002467.pdf](http://wbln0018.worldbank.org/html/FinancialSectorWeb.nsf/(attachmentweb)/wp002467/$FILE/wp002467.pdf)
5. Governments often use economic needs tests to discourage new foreign direct investment, and take into account *inter alia*, the number of existing firms, level of competitions, and the size of the market as criteria in the process of granting a license to establish a commercial presence.
6. PriceWaterhouseCoopers, The Opacity Index, January 2001. Opacity is based on 5 different factors that impact capital markets: 1) corruptions; 2) legal systems; 3) government and macroeconomic and fiscal policies; 4) accounting standards and practices (including corporate governance and information release); regulatory regime.
7. The study uses Singapore as the benchmark, so that an increase in opacity from the Singaporean level to the Chinese level has the same negative effect on investment as raising the tax rate by 46 percent.
8. 2002 White Paper on American Business in China, March 2002.
9. The term "regulator" is intended to cover all bodies that are authorized pursuant to law to play a role in the licensing and supervision of the activities of financial services firms, as well as the bodies that formulate rules, regulations and policies relating to such firms. Where the legislature or authorized regulator delegates its authority to a non-governmental entity such as a self-regulatory organization or trade association, the term is intended to encompass such an entity.
10. The term "regulatory enforcement proceedings" means administrative or judicial action authorized by the relevant regulatory authority and is intended to cover civil, administrative or criminal proceedings that involve a financial services firm and/or its employees based on their financial services activities.
11. The term "regulatory authority" is intended to cover all regulatory bodies involved in the inspection, auditing, investigation or prosecution of the activities of financial services firms. Depending on the system, the term may encompass criminal and judicial authorities as well as non-governmental entities such as self-regulatory organizations.