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Fax Message

No of pages: 2
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From: Chin-Chong Liew/ Emily Yu

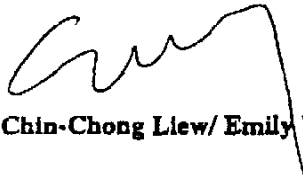
Date: 15th March, 2000

Subject: **Qualified Foreign Institutional Investor**

Please find attached a letter from the SFC of Taiwan (the content of which is self-explanatory) in relation to the above matter for your information.

Although the SFC have mentioned in the letter that they have "further relaxed the measures" after their meeting with foreign investors on 11th February, we understand from Lee & Li that no new notices/announcements have been released yet.

Kind Regards,



Chin-Chong Liew/ Emily Yu

att.

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This fax is confidential and may also be privileged. If you are not the intended recipient, please notify us immediately; you should not copy it or use it for any purpose, nor disclose its contents to any other person.

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MADRID MILAN MOSCOW NEW YORK PARIS PRAGUE ROME SINGAPORE TIRANA TOKYO TURIN WARSAW

* Registered foreign lawyer admitted to practise in England and Wales.

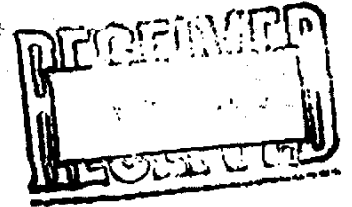
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財政部證券暨期貨管理委員會
Securities & Futures Commission
MINISTRY OF FINANCE



Quentin Hills/Paul Wilkinson
Co-Chairmen of the South East
Asia Steering Committee
International Swaps and
Derivatives Association, Inc.
Via Fax: 852-2974 6999

March 14, 2000

Dear Sirs,

I have received your letter dated 13th March, 2000, proposing that the Announcement requiring QFIIs to disclose the information of derivative trading with Taiwanese stocks as the underlying securities be amended.

Since the Announcement was made last September, we have been responsive to the feedback of overseas investors. And in the wake of a meeting with representatives of the foreign investors' community held on 11th of February this year, we have further relaxed the measures. Given the importance of this matter and the concern of your Association, my office is willing to look into this matter further by requesting an inter-division meeting to be held soon. I shall keep you posted about the progress and see how far we can further relax the measures while in the meantime effectively regulate the market.

Thank you for your interest in this matter.

Sincerely yours,

Ing-je Lin
Director of International Affairs
Securities and Futures Commission

ALLEN & OVERY

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Our Ref: CAMH/CCL/YHME/30047-00283

14th March, 2000

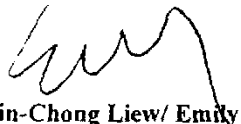
Richard Grove
International Swaps and Derivatives Association, Inc.
27/F, Rockefeller Center
600 Fifth Avenue
New York, NY10020-2302
U.S.A.

Dear Rick,

Qualified Foreign Institutional Investor

We enclose a copy of the letter of submission (with Chinese translation) which was sent out to the SFC of Taiwan yesterday.

Yours sincerely,



Chin-Chong Liew/ Emily Yu

encl.

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AMSTERDAM BANGKOK BEIJING BRATISLAVA BRUSSELS BUDAPEST DUBAI FRANKFURT HONG KONG LONDON LUXEMBOURG
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ISDA

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13th March, 2000

BY FAX & BY COURIER
(Fax No: 8862 8773 4146)

Division of International Affairs
Securities and Futures Commission
Ministry of Finance
85, Sec.1, Hsin-Sheng S. Road
Taipei, Taiwan
ROC

Attention: Mr. Ing-Jer Lin, Director
Mr. Philip W. Ong, Vice-Director

Dear Sirs,

Derivative Disclosure by Qualified Foreign Institutional Investors ("QFIIs")

The International Swaps and Derivatives Association, Inc. ("ISDA") respectfully presents this letter of submission to the Securities and Futures Commission (the "SFC") in relation to its announcements dated 3 September 1999 (ref. no. (88) Tai-Cheng (8) No. 69926) and 17 December 1999 (ref. no. (88) Tai-Tsai-Cheng (8) No. 04749) (the "Announcements").

By way of brief introduction, ISDA is an international financial trade association whose membership comprises over 450 of the world's largest commercial, merchant and investment banks, corporations and other institutions. ISDA's members represent a broad cross-section of the institutions that act as dealers and end-users of swaps and other privately negotiated derivative transactions from over 36 countries world-wide. A recent list of ISDA's members is attached as an Annex to this letter.

1. Introduction

ISDA supports the SFC's aims of deterring and discovering insider trading and market manipulation activities relating to companies listed in the Republic of China ("ROC") and accordingly applauds the commitment of the SFC in promoting market transparency.

However, ISDA respectfully disagrees with the fundamental approach taken by the SFC which attempts to achieve the aims of deterring and discovering insider trading and market manipulation by regulating the QFIIs in the manner set out in the Announcements.

Furthermore, ISDA is concerned about some of the provisions in the Announcements which impose extremely burdensome disclosure requirements on the QFIIs. ISDA notes that such disclosure requirements are time consuming, and may not serve the purposes of detecting insider dealing or controlling market manipulation. ISDA submits that any burdensome disclosure requirements should be met with caution as this may fetter the ability of a QFII to act in a commercial manner which may impact on the efficient functioning of the QFII industry as a whole and the ROC equity markets at large.

In particular, ISDA has identified the following concerns in respect of the Announcements:

- imposing disclosure obligations on the QFIIs may not control insider trading and market manipulation activities
- the compliance with disclosure requirements may breach confidentiality and destroy the proprietary nature of information
- the disclosure requirements under the Announcements may be extra-territorial
- the Announcements require disclosure of all derivative transactions involving shares of ROC listed companies without regard to the "materiality" of such transaction
- the definition of "related parties" is too broadly defined
- the QFIIs are required to disclose derivative transactions of their related parties notwithstanding that they have no means of access to such information
- the timeframe within which a QFII must report derivative transactions is too short

2. Regulating Qualified Foreign Institutional Investors

ISDA shares the concerns of the SFC in relation to insider dealing and market manipulation which are believed to be conducted by insiders of the ROC listed company or through their offshore related parties. However ISDA believes it is unlikely that the objectives of curbing insider trading and market manipulation activities will be achieved to any meaningful extent by imposing on the QFIIs the disclosure obligations as set out in the Announcements. On the other hand, ISDA is concerned about the negative impact which the burdensome disclosure obligations in the Announcements would have on QFIIs.

Confidentiality and proprietary information

ISDA notes that it is highly likely that the QFIIs owe a duty of trust and confidentiality to their clients and counterparties alike with respect to their trading activities. Accordingly, ISDA is concerned that the disclosure obligations under the Announcements may serve to undermine this confidential relationship between the QFIIs and their clients and counterparties. The problem is particularly acute in certain jurisdictions where secrecy laws would not permit the disclosure of such information without specific written consent of the other parties (which may be difficult or otherwise impractical to obtain). A QFII is therefore placed in an impossible situation where it will run the risk of breaching its duty of confidentiality to its clients or the relevant secrecy laws by making a disclosure to the SFC. Otherwise, it will breach the requirements under the Announcements if it does not make a disclosure to the SFC.

ISDA also notes that disclosure requirements under the Announcements may require a QFII to provide pricing and trading information which are proprietary to another third party (e.g. the Custodian) for transmission to the SFC. There is a risk of this proprietary information being brought to the public domain (no matter how unknowingly) with the consequent result of the QFII losing its intellectual property rights.

Extra-territoriality

Furthermore, the disclosure obligations extend to any dealing by any related parties of a QFII involving shares of ROC listed companies. ISDA understands that this has called into question the extra-territoriality of the Announcements.

To this end, ISDA is not aware of any similar restriction imposed on institutional investors located within other countries world-wide. The need for investors to comply with a more stringent regime in one jurisdiction may, in some cases, deter institutional investors from maintaining or establishing any meaningful local presence.

3. Disclosure Requirements under the Announcements

The Announcements specify that all derivative transactions conducted by any QFII and its related parties linked to securities of ROC listed companies must be reported (whatever their amount) within five business days after the relevant transaction date. In addition, all exchange-traded futures transactions conducted by any QFII and its related parties linked to securities of ROC listed companies must be reported monthly by the 10th day of the following month.

No Materiality

ISDA believes that it is inappropriate for the SFC to require disclosure of all derivative transactions related to securities of ROC listed companies irrespective of the materiality of such transactions. Blanket disclosure requirements may result in the SFC receiving information that they do not want or need to achieve the goal of transparency. In fact the sheer amount of information may impede the SFC's efforts to identify material transactions. Additionally, the disclosure requirements impose significant costs and legal risks on both the SFC and the QFIIs.

For example, ISDA firmly believes that it is inappropriate for the Announcements to require the QFIIs to disclose derivative transactions relating to shares of ROC listed companies of which they or their related parties only purchase a small quantity or index-linked or basket (particularly the broad based basket) transactions which include a non-substantial ROC component. Equity index linked derivatives are generally utilised to simulate an exposure to the relevant market as a proxy for direct investment in that market. By their nature, these transactions are unlikely to have significant impact on the value of any ROC stock component and such transactions cannot easily be used to manipulate the prices of individual component stocks.

ISDA notes that some of these disclosure requirements contained in the Announcements will cause an overflow of extraneous information to the SFC and adversely impact on the efficient functioning of the QFIIs.

Related Parties

It is already a huge and daunting task for a QFII to gather information relating to derivative transactions entered into by itself world-wide in view of the size of some QFII, the various independent divisions within the QFII as well as the "Chinese" and "fire" walls currently existing within itself. In this regard, ISDA notes that when a QFII is additionally required to disclose derivative transactions involving listed ROC shares conducted by its related parties it is practically an impossible proposition.

Under the Announcements, the term "related party" is defined to mean any entity which is independent in existence from the QFII but there exists either a controlling or subordinate relationship or a cross-investment relationship between such entity and the QFII.


The definition of "related party" in the Announcements is extremely broad and would capture a universe of entities throughout the world which are related in one way or another to the QFII. In this regard, ISDA notes that, although related to the QFII, these parties are often autonomous entities which operate wholly independently of the QFII. Quite understandably therefore, the QFII may not have any information on the derivative transactions entered into by such parties involving listed ROC shares and may not have any means of access to such information. Furthermore, ISDA understands that in a great number of cases there may not be any centralised system or mechanism pursuant to which information on all such parties and the QFII can be pooled together. Accordingly, there is simply no way pursuant to which the QFII could monitor and collate transactions information with respect to its related parties. This presents insurmountable problems in the case of a QFII which is an international investment bank where the number of related parties could easily run into hundreds.

Further, ISDA notes that member companies within the same group usually have a complex relationship which may not render it readily susceptible to the application of this concept of "related party".

Contractual Customers

Under the Announcements, ISDA understands that a QFII holding securities for contractual customers is also required to make a disclosure when the securities are held as a hedge for derivatives conducted by such customers. This places the QFII in an impossible position since the QFII would not normally know and has no means of knowing the purpose for which the ROC listed securities are held and whether the customers have entered into any derivative transactions. Even a QFII uses its reasonable endeavours to obtain relevant information from such customers and assuming that some information is provided to the QFII, there is again no means by which the QFII could verify the accuracy or otherwise of the information.

ISDA believes that where the QFIIs hold securities for contractual customers, the SFC should clarify that the QFIIs should not be under any obligation to disclose when they do not know of the purpose for which the ROC listed securities are held and whether the contractual customers have entered into any derivative transactions. Even where information is provided by any contractual customers, the SFC should make it clear that the QFIIs are not responsible for the correctness of the information transmitted to the SFC.



Time Frame

ISDA is also aware of the difficulties of the QFIIs in meeting the very tight reporting deadlines set out in the Announcements due to the vast quantity of information required by the SFC and the fact that reporting of derivatives transactions usually involves different offices of a QFII in various different jurisdictions. It is common to expect the disclosure by a QFII to involve at least a few offices: for example, the completion of the disclosure form may be performed by the operational staff of the QFII located in one jurisdiction, the verification of the disclosure forms is then carried out by the legal and compliance department of the QFII in another jurisdiction and finally the signing of these forms is done by an authorised signatory in another third jurisdiction.

The problem is again compounded by the requirement that the QFII will have to collate information from all of its related parties and their offices world-wide.

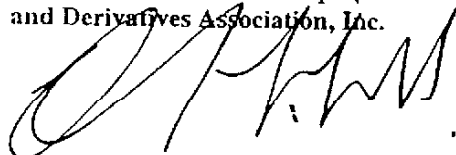
4. Conclusion

ISDA fully supports the objectives of the SFC in the prevention of market manipulation and insider dealing and the promotion of greater transparency in the equity markets. However, as set out in the above submission, ISDA is concerned that the disclosure obligations in the Announcements may not achieve in a meaningful way the goals of the SFC.

ISDA encourages the SFC to consider abolishing or otherwise revise the Announcements in view of the issues highlighted in this letter. Toward this end, ISDA would appreciate further opportunities to communicate with the SFC with respect to these important issues. Should the SFC require further information or wishes to meet with any ISDA representatives to discuss this matter, please do not hesitate to contact Quentin Hills on (852) 2868 7811 or Paul Wilkinson on (65) 431 8348.

Yours faithfully,

For The International Swaps and Derivatives Association, Inc.



Quentin Hills/Paul Wilkinson
Co-Chairmen of the South East
Asia Steering Committee
International Swaps and
Derivatives Association, Inc.

Chinese translation attached