

**MEMO# 14817**

June 21, 2002

# **CHINA ADOPTS RULES FOR FOREIGN PARTICIPATION IN FUND MANAGEMENT COMPANIES**

[14817] June 21, 2002 TO: INTERNATIONAL COMMITTEE No. 47-02 RE: CHINA ADOPTS RULES FOR FOREIGN PARTICIPATION IN FUND MANAGEMENT COMPANIES On June 1, 2002 the China Securities Regulatory Commission adopted final rules on the Establishment of Fund Management Companies with Foreign Investment Participation setting forth the requirements under which foreign firms will be able to acquire an interest in a Chinese fund management company or establish a joint venture fund management company with Chinese partners. The final rules include a number of changes to the proposal issued by the CSRC for comment in December 2001. 1 Attached is an English translation of the final rules, which the Institute received from the Hong Kong Investment Funds Association. As discussed below, the CSRC acted favorably on several comments the Institute made on the proposed rules. In many other respects the proposed requirements were not changed, however, and the final rules impose broad authority on the CSRC to specify additional requirements in administering the application process under these rules. As a general matter, to qualify to participate in a Chinese fund management company, a foreign firm must be established under the laws of its country of residence and not have been the subject of heavy regulatory or judicial penalties during the recent three years. As the Institute suggested, the text of the disqualification provision was modified to clarify that it would not apply to minor or technical infractions. In addition, the proposal to require an applicant to submit a certification from its regulator that it had not committed any material illegal activities within the recent three years has been dropped. The final rules retain the requirement that the foreign firm be located in a country with which the CSRC has a memorandum of understanding on cooperation in securities regulation and a working relationship of regulatory cooperation. The final rules retain the requirement that the overseas foreign institution seeking to participate in a Chinese fund management company under the rules have paid in capital of RMB300 million [\$36 million]. (The Institute had argued that this amount was excessive and not needed for investor protection.) 1 See International Committee Memo No. 9-02, dated January 11, 2002. 2 Finally, the rules as adopted permit the CSRC to impose other prudential requirements for qualification of a foreign firm under these rules and to require domestic and foreign applicants to submit application materials to the CSRC as specified by the CSRC. The final rules require the CSRC to act on applications within 60 days of formal acceptance of the application, to notify applicants in writing of its decision, and to state the reasons if it refuses approval of an application. Mary S. Podesta Senior Counsel Attachment (in .pdf format)

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