

MEMO# 16374

July 30, 2003

DRAFT COMMENT LETTER TO USTR REGARDING CHINA'S COMPLIANCE WITH WTO COMMITMENTS

URGENT/ACTION REQUESTED [16374] July 30, 2003 TO: INTERNATIONAL COMMITTEE No. 50-03 RE: DRAFT COMMENT LETTER TO USTR REGARDING CHINA'S COMPLIANCE WITH WTO COMMITMENTS Attached is a draft Institute comment letter to USTR regarding issues facing the US asset management industry in China. USTR will be participating in the World Trade Organization (WTO) second annual Transitional Review Mechanism (TRM) for China. TRM provides for a comprehensive annual review of China's efforts to comply with its WTO commitments. As you know, under China's accession agreement, foreign firms are permitted to own up to 33% of a Chinese asset management firm as of December 11, 2001, and up to 49% of an asset manager by December 11, 2004. In the letter, we recommend that China go beyond its 49% equity ownership commitment and permit a foreign asset management firm to choose its form and equity participation levels to best enable it to provide asset management services and compete on the same basis as domestic firms. The Institute's letter also states that, for China to implement the commitments in place in the accession agreement, China must make progress in eliminating barriers that prevent US and other foreign firms from obtaining effective market access to the Chinese market. Specifically, the letter requests that China provide greater transparency in the eligibility criteria for foreign institutions seeking to participate in the Chinese domestic asset management market and create a uniform minimum time period for comment in promulgating regulatory requirements. The letter also states that the current capital requirement imposed on foreign firms entering into a joint venture to provide asset management services is excessive, is not necessary for protection of investors, and operates as a barrier to entry. Finally, the letter states that certain requirements of the new Qualified Foreign Institutional Investors rules – the percentage of an issuer's securities that may be held by any one QFII and all QFIIs in the aggregate, high minimum account provisions, and repatriation restrictions – operate as barriers to entry for QFIIs and will serve as a disincentive to investment in China. 2 Please provide any comments you may have on the draft letter to me by Wednesday, August 6, at jchoi@ici.org or at (202) 326-5810. Jennifer S. Choi Associate Counsel Attachment (in .pdf format)