REMARKS OF

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THE ROLE OF THE REGULATOR IN PROMOTING CAPITAL FORMATION

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* The views expressed herein are those of Commissioner Beese and do not necessarily represent those of the Commission, other Commissioners, or the staff.

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Two centuries ago Napoleon cautioned with regard to China that "There lies a sleeping giant -- let him sleep! For when he wakes he will move the world." China has awoken, and while he may still be drowsy, he has the potential to become a leading economic power. According to the International Monetary Fund, China now ranks as the world's third largest economy with a gross domestic product of $1.7 trillion. More than becoming another "tiger" in Asia, China has the potential to recast Asia as the world's economic engine for the next decade and beyond.

To fulfill this potential, China must develop an efficient means of allocating capital to the companies that will employ it's people, develop it's products and create prosperity. The commitment to developing efficient capital markets is what brings us together for this conference, and I am certainly honored to be a part of this effort.

Securities markets are not new to China, Shanghai was home to the largest securities market in Asia in the 1930's. As the activity on the Shanghai and Shenzhen stock exchanges and the OTC markets has shown in the last year, the entrepreneurial spirit is still alive and well in China. The challenge that China faces today is to develop the legal, institutional and structural support *necessary to make these markets efficient and fair. Herein lies the role of the regulator.*

U.S. CAPITAL MARKETS

In the United States, we have seen first-hand that the creation of an immense and highly efficient securities market can start from modest beginnings.

Two hundred years ago a group of bankers began meeting daily under the shade of a buttonwood tree on New York's Wall Street. In an effort to bring order and stability to their activities, this group signed an agreement binding themselves to certain regulations and restrictions in their dealings with one another. The resulting entity became known as the New York Stock Exchange, and while the buttonwood tree is no longer there, the securities market has flourished.

Today, I am proud to say that our markets have emerged as the cleanest and fairest markets in the world. We view this as a competitive strength, not a weakness. Investors the world over are encouraged to participate in the U.S. market because they know that because of U.S. laws, financial information provided to them by companies is complete and accurate. Investors also know *that they can judge the quality of service they get from their broker because they will be able to have virtually instantaneous information on stock quotes and the details of completed transactions.*

Investors know that capital requirements help to protect the stability of the market and the safety of their funds. Because of laws and regulations by the SEC, investors also have confidence that prices will be set by market forces alone, and not by insider arrangements. The result of regulation of disclosure, transparency, accounting rules, capital, trading systems, clearance and settlement, mutual funds and many other areas is public confidence in the market, and participation in that market on a massive and sustained basis.

From a regulator's perspective, there are four keys to promoting investor confidence in the marketplace. First is disclosure. Companies that seek to raise funds in the capital markets must reveal accurately to investors their business, their finances, and their history -- both in good times and in bad.

Second is fairness. Regulators play a vital role in maintaining honest markets, ensuring that brokers and dealers treat customers fairly.

Third is enforcement. While we do not want to unduly burden the market with excessive regulations, when violations are detected the laws must be *vigorously enforced. This is particularly true in today's world of international capital flows. Regulators of one nation have a difficult time enforcing their securities laws without cooperation and information sharing among regulators of other nations.*

Fourth is adaptability. As markets become more and more complex, regulating the markets involves trial and error, fine-tuning, and improving upon what's been done in the past. In every market, a balance must be drawn between investor protection and excessive regulation. Too much regulation will drive issuers to other markets, while too little protection will drive investors away. An efficient market must meet the needs of both investors and issuers and provide the mechanism by which their interests meet.

In the United States, two laws serve as the cornerstone of the regulation of our capital markets. The Securities Act of 1933 requires that, prior to any public offering of securities, the securities offering documents must be filed with the SEC for review. The underlying philosophy is that full and fair disclosure will allow informed decisionmaking by investors. The Act is truly a disclosure statute, however, and the SEC does not have the authority to review or pass upon the merits of the securities being offered. As long as the investor is fully informed, he or she is free to make a good or bad investment decision on their own.

Similarly, under the Securities and Exchange Act of 1934, companies are required periodically to report to their investors on their financial condition and all other material events. The SEC, however, has no authority under the Exchange Act to shut down a company in financial difficulty. We can only make the company report its financial difficulties fairly and fully to its investors.

The SEC has been administering these statutes for sixty years and we believe they have served our markets and our Nation well. We strongly believe that companies, both when they first offer securities to the public and for as long as their securities are traded on public markets, should disclose to the public what they are doing, and how they are doing. Public confidence that "the full story has been told" is a key part of any company's ability to attract investment.

EMERGING MARKETS

That's enough about the U.S. market, however. This week you are fortunate to have numerous experts available to discuss the mechanics of particular types of capital raising techniques and investment vehicles. I would like to take a broader view and discuss what I believe are the fundamental *elements of designing a sound regulatory structure in an emerging market. And then discuss the potential reward for establishing such a market -- broad-based access to international capital flows.*

The first question that must be asked when seeking to establish capital markets is "What are the overriding policy aims?" To that question I would answer that the primary goal of securities markets is to facilitate the efficient allocation of resources in the economy.

*With that goal in mind, what are the main principles that flow from this goal?*1/ *First, markets must control pricing. Markets can perform their allocation function only to the extent that prices are competitively based upon the independent judgment of investors with adequate information. To accomplish efficient pricing, therefore, it must be the case that investors have access to consistent and reliable financial information derived from standardized accounting rules.*

The relative quality of issues traded in the market can be maintained through adequate listing standards or by establishing objective guidelines for new issues such as minimum criteria in terms of profits, revenues, assets or net

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1/ See generally, Chuppe and Atkin, Regulation of Securities Markets, Some Recent Trends and Their Implications for Emerging Markets, IFC Policy Research Working Papers, (January, 1992) at 32-35.

worth. Subject to meeting these minimum standards, market forces should then determine the relative merits of a particular security offering. Supervision of market trading systems will also be needed to prevent market manipulation and to ensure that insiders do not use privileged information to the disadvantage of public investors.

To the extent that government needs to play a role in this process, the most efficient use of government resources is probably in educating investors about the risks and rewards of owning marketable securities and not in trying to determine the prices of those securities.

Unnecessary restrictions on entry into the financial services sector should also be avoided. While it is certainly appropriate to have capital adequacy and minimum competency requirements, barriers should not be erected merely to protect certain market participants from meaningful competition. Competition encourages creativity, challenges market participants and attracts capital.

In addition, restrictions on foreign share ownership can find no justification in the economic theory of regulation. The presence of foreign institutional investors serves to improve the flow of information concerning listed companies which in turn leads to more efficient pricing of securities and increased capital flows.

INTERNATIONAL CAPITAL FLOWS

With these principles serving as our guide, how do developing markets access international capital flows?

The answer is rather simple. Capital, like nature, abhors a vacuum. When not inhibited by artificial barriers or protectionism, it naturally flows to where it is scarce and to where returns are higher. As businesses diversify internationally, they seek to raise capital in their new markets. In fact, many syndicate managers now have a new reference book on their desks -- an atlas.

The internationalization of the world's capital markets is an irreversible process. During the past three years alone, foreign companies have registered more than $96 billion of securities with the SEC in more than 400 offerings. All told, 559 companies from throughout the world are traded publicly in the U.S. market. As many of you may know, one of these companies is Brilliance China Automotive Holdings, China's first listing on the New York Stock Exchange.

With low interest rates in the U.S., foreign companies are also rushing into U.S. debt markets. This is a win/win situation for issuers and investors.

By issuing so-called "Yankee bonds," foreign issuers get to lock-in low cost money for 15 to 20 years, while U.S. institutional investors can diversify their portfolios and earn an additional 20-30 basis points in the process.

In fact, The People's Construction Bank of China and the China International Trust and Investment Corporation have both issued Yankee bonds in the last few months. These offerings represented the first time Chinese financial institutions have issued bonds in the United States since 1911.

As much as issuers desire access to international capital markets, investors demand access to foreign investment opportunities. And in fact, that demand is being fulfilled today. U.S. investors gross purchases and sales of foreign stocks grew from $30 billion in 1983 to $331 billion in 1992.

In the U.S., regulators have long since stopped trying to resist this trend. Instead, our concern is one more of competition. Markets compete for capital just like companies compete for capital. One of our goals is to try to satisfy as much of the demand for foreign stocks through U.S. markets as possible.

For foreign issuers not yet prepared to follow in Brilliance China Automotive's footsteps, we have so-called Rule 144A offerings which allow certain large issuers to make offerings to sophisticated investors without the *same restrictions that apply to offerings of securities that are available to small investors. So far, over 140 foreign companies have raised over $10 billion in capital in this market over the last three years. The underlying principle behind Rule 144A is that certain protective measures are unnecessary with regard to sophisticated investors that can "fend for themselves."*

ADR's, or American Depository Receipts, are also widely used and give foreign firms a means of accessing the U.S. market. ADR's indicate the ownership of foreign-based shares or securities by American investors. Last year, 23 ADR public offerings and 25 private placements raised over $9 billion in capital.

It is my understanding that several Shanghai companies are currently making preparations for ADR listings in the U.S. These listings not only help to meet the capital needs of the issuer, but have other benefits as well. An official from Chlor-Alkali Chemical Company, one of the Shanghai companies preparing an ADR offering, has noted that offering ADR's in the U.S. may also prove to be an effective marketing tool in that it will increase investor awareness about their company.

Recognizing that international capital flows are here to stay is not enough. Our economies become more closely linked every day and we must chart a *course for the future. From my perspective at the SEC, there are three main issues going forward with regard to facilitating international capital flows.*

First, regulation must be streamlined to the extent possible. As I said earlier, markets compete for capital just like issuers do -- to be competitive in this global environment markets need to be efficient.
Some markets attempt to gain a competitive advantage by having significantly lower regulatory requirements -- this a practice known as regulatory arbitrage. I caution against this approach. While low regulatory standards may attract certain issuers, investors simply will not tolerate inadequate protection. There are simply too many choices available to investors in the modern technological world.

Second, we should accommodate home country practices where these practices are consistent with the goal of investor protection. Each market has unique needs, practices and regulatory requirements. Regulators must be willing to accept another regulatory system when that system is compatible with domestic regulatory requirements.

And finally, we should develop international standards where possible. Clearly, the most troublesome problem for many foreign issuers seeking to raise capital in the U.S. is complying with U.S. accounting standards. Regulators *from all countries can do much to alleviate this problem by establishing a core set of accounting principles to govern cross border transactions.*

To the extent that regulators and market participants can meet these challenges, international capital flows will serve as the tide that lifts all boats. In other words, we will all be better off.

CONCLUSION

From my point of view, first as a participant in the markets for 14 years, and now as a regulator, the competitive spirit that characterizes markets the world over is the most important element of developing and maintaining an efficient capital market. Competition is what makes markets healthy. Competition is what attracts capital. And competition is what facilitates market integrity.

This is an exciting time in international finance. This is an exciting time for China. The world has taken notice of the potential promise of China's economy and wants to play a part. The decisions that are made regarding market structure, regulation, and ultimately fairness will have profound implications for the future.

In that spirit, let me close by assuring you that the SEC stands ready to assist in this process in any way possible. Thank you once again for allowing to participate in this effort.