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Statement of the Shadow Financial Regulatory Committee

On

Access by Institutional Investors to Foreign Electronic Trading Venues

May 5, 2003

Institutional investors in the United States are constantly trying to reduce their trading costs, which are a direct drag on performance. The Securities and Exchange Commission should encourage any innovation that may reduce these costs. Most innovations fail, but if they succeed, US investors benefit.

In the US, institutional investors routinely utilize electronic access to the Electronic Communications Networks and other trading venues when such access can reduce trading costs. US institutional investors do not currently have similar electronic access to foreign markets.

Foreign trading venues encounter some legal risk if they permit direct electronic access to US investors without prior SEC approval. The SEC has taken the position that any foreign trading venue that provides electronic access to a US institutional investor, as distinct from telephonic access through US registered broker-dealer, may be subject to US regulation. In the rapidly changing world of telecommunications, the differences among methods of communication between the US and foreign countries should not determine whether access is permissible, and it is time that the SEC clarify how US institutional investors can link themselves with foreign trading venues.

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To facilitate the development and availability of new foreign trading venues to US institutional investors in non-US equities, the Shadow Financial Regulatory Committee urges the SEC to publish conditions under which a foreign trading venue can provide electronic access to US institutional investors. Providing criteria for electronic access will reduce the regulatory risk of foreign venues associated with allowing electronic access by US institutional investors. The availability of such access may reduce the trading costs of US institutional investors, which will benefit, among others, individual investors in mutual funds.