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MEMORANDUM
OF
UNDERSTANDING

BETWEEN THE

UNITED STATES COMMODITY FUTURES TRADING COMMISSION	AND	CHINA SECURITIES REGULATORY COMMISSION

REGARDING FUTURES REGULATORY COOPERATION

U200200891

1. The United States Commodity Futures Trading Commission (CFTC) was created by the United States Congress as an independent agency with the mandate to regulate commodity futures and options markets in the United States.

2. The China Securities Regulatory Commission (CSRC) has been established with the approval of the State Council of the People's Republic of China as the authority in charge of supervising and regulating the national securities and futures markets in China.

3. The CFTC and the CSRC (collectively the Authorities), are jointly committed to maintaining open, fair, efficient and sound futures and options markets; recognize that the development of domestic legal and regulatory structures is essential to market integrity and investor protection; believe that international cooperation can facilitate the development and effective operation of futures and options markets; and desire to establish a mutually acceptable basis for cooperation, consultation and the provision of technical assistance. The CFTC and the CSRC have reached the following understanding with respect to cooperation, consultation, and the provision of technical assistance.

CLAUSE I CONSULTATION REGARDING MATTERS OF MUTUAL INTEREST

Section 1. General Principles

1. This Memorandum of Understanding (MOU) describes the intent of the Authorities and does not create legally binding obligations or supersede domestic law of either country.

2. The Authorities recognize the need and desirability of providing assistance, as set forth in Clauses II and III, to each other pursuant to this MOU. The provision of any such assistance should be consistent with the domestic laws of the Authorities and the availability of resources. Where the provision of assistance would be contrary to the public interest of an Authority, such assistance may be denied.

3. The Authorities intend to engage in a dialogue on all aspects of futures and options regulation and on the development and operation of their futures and options markets.

Section 2. Consultation

The Authorities intend to consult periodically about matters of mutual interest in order to promote cooperation and market integrity, and to further the protection of futures and options market participants. Such consultation may cover, among other things, the development of prudential standards and conduct of business standards for the operation of futures businesses (brokers, dealers and markets), the evolution of clearance and settlement and other market systems, the execution of market oversight, and the administration of the Authorities' futures and options laws, rules, and regulations. The purpose of such consultation is to assist in the development of effective approaches to strengthening domestic and international futures and options markets.

Section 3. Information Sharing

The Authorities intend to share information on each other's laws, rules and regulations pertaining to futures and options markets and how those laws, rules and regulations are implemented and interpreted.

CLAUSE II PROVISION OF TECHNICAL ASSISTANCE FOR THE DEVELOPMENT OF THE CHINA SECURITIES REGULATORY COMMISSION

Section 1. Technical Assistance

The CFTC intends to consult with and provide advice to the CSRC for the development, administration, and operation of the futures and options markets in the People's Republic of China. Such consultation should identify specific types of technical assistance the Authorities believe are desirable and reasonable. The technical assistance may include the training of personnel as well as the provision of information and advice relating to the development of:

a. Systems to improve the risk management, price discovery and hedging functions of markets;

b. Futures and options products and the basics of designing contracts not readily susceptible to manipulation;

c. Order handling systems;

d. Trade recording and comparison systems;

e. Quotation and transaction data transmission systems;

f. Clearance and settlement mechanisms;

g. Regulatory requirements and best practices relating to market professionals, products and markets;

h. Systems and related regulatory mechanisms relating to financial surveillance;

i. Systems for effective market surveillance and enforcement programs;

j. Disclosure and other procedures and practices to protect futures and options customers and market participants; and

k. Information with optimal levels of transparency.

Section 2. Specific Technical Assistance

Specific technical assistance may be provided in the following manner:

a. Comment by CFTC staff on draft laws and regulations;

b. Availability of CFTC staff and other relevant experts to provide consultation regarding futures and options markets;

c. General training sessions concerning futures and options regulation; and

d. Internship programs of short duration for CSRC personnel at the CFTC, conditioned upon entering into any necessary confidentiality agreements.

Section 3. Availability

The Authorities recognize that specific technical assistance is subject to the availability of resources and domestic authorizing legislation.

CLAUSE III COOPERATION

Each Authority may, subject to Clause IV, Section 2, give assistance as to:

a. The granting of licenses for the conduct of futures business;

b. The observance of the laws and regulations applicable to futures business;

c. The observance of the laws and regulations applicable to futures exchanges and other types of markets;

d. The observance of the regulations of futures exchanges by their members or other market participants; and

e. The prevention and detection of futures and options fraud and other irregularities in connection with the offer, purchase or sale of any futures or options contract.

CLAUSE IV OPERATIONS

Section 1. Laws, Rules and Requirements

The Authorities have exchanged general information on the laws, rules and requirements applicable to the confidentiality and use of information.

Section 2. Requests

Requests for assistance under Clause III, procedures for making and executing such requests, permissible uses of information, confidentiality requirements and other matters not explicitly included in this MOU should be addressed on a case-by-case basis.

Section 3. Official Contacts

To further ensure the effective operation of this MOU, and to facilitate communication between the Authorities, the Authorities hereby designate the contact officials set forth in Attachment A.

CLAUSE V FUTURE UNDERSTANDINGS

1. The Authorities plan to regularly review their efforts pursuant to this MOU with a view toward improving communication between them. In this regard, when new United States and/or People's Republic of China futures and options laws take effect, the Authorities intend to consider whether this MOU should be supplemented or superseded.

2. The Authorities intend to move toward more formal information sharing arrangements after they have some experience with the operation of this MOU.

CLAUSE VI EFFECTIVE DATE AND TERMINATION

Section 1. Effective Date

This MOU will be effective from the date of its signature by the CFTC and the CSRC.

Section 2. Termination

This MOU may be terminated at any time by either Authority giving thirty days' written notice to the other Authority. Termination of this MOU will not affect requests for assistance that are made prior to the effective date of such notification.

This MOU is executed in duplicate in English and Chinese in Washington, DC on January 18, 2002.

FOR THE
UNITED STATES COMMODITY
FUTURES TRADING COMMISSION

JAMES E. NEWSOME
CHAIRMAN

FOR THE
CHINA SECURITIES
REGULATORY COMMISSION

ZHOU XIAOCHUAN
CHAIRMAN

ATTACHMENT A

The United States Commodity Futures Trading Commission designates as its contact official:

Director
Office of International Affairs
Commodity Futures Trading Commission
3 Lafayette Centre
1155 21st Street, NW
Washington, DC 20581-0001
USA

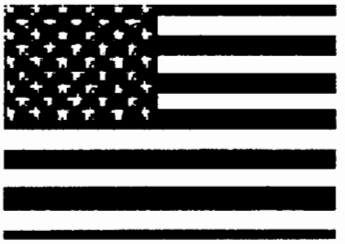
Tel: 202 418 5645
Fax: 202 418 5548

The China Securities Regulatory Commission designates as its contact official:

Director-General
Department of International Cooperation
Jin Yang Plaza
16 Jin Rong Street
Xi Cheng District
Beijing 100032
The People's Republic of China

Tel: 8610 662 10205
Fax: 8610 662 10206

期货监管合作谅解备忘录



中国证券监督
管理委员会

美国商品期货
交易委员会

一、中国证券监督管理委员会（以下简称“中国证监会”）是经中华人民共和国国务院批准设立的机构，负责对中国的证券、期货市场进行监督管理。

二、美国商品期货交易委员会（以下简称“美期交会”）是由美国国会批准设立的独立机构，负责对美国的期货和期权市场进行监督管理。

三、中国证监会和美期交会（以下合并简称“主管机构”），共同致力于维护公开、公平、有效和健康的期货、期权市场；双方均认识到发展有效的国内法律和监管体系对于维护市场诚信和保护投资者至关重要；确信国际合作能促进期货、期权市场的发展和运作；愿意为相互合作、磋商和提供技术协助奠定双方均能接受的基础。中国证监会和美期交会就合作、磋商和提供技术协助达成以下谅解。

第一章 关于共同关注事宜的磋商

一、一般原则

（一）本备忘录仅陈述主管机构之意向，不构成有法律约束力的义务，也不可取代各自国家的国内法。

（二）主管机构认为，依据本谅解备忘录第二、三章的规定向对方提供协助是必要和有益的。这些协助应当在主管机构

所属国内法及各种资源条件允许的范围内提供。若提供的协助与主管机构的公共利益相违背，可拒绝提供这些协助。

（三）主管机构愿意就涉及期货期权监管的各个领域及双方期货、期权市场的运作和发展情况进行对话。

二、磋商

主管机构愿意就双方共同关心的事宜保持经常性磋商，以促进合作和市场诚信，从而进一步保护期货和期权市场参与者。该磋商内容可包括（经纪人、交易商和市场）经营期货业务的审慎原则和职业操守标准，交割及其它市场体系的改进，市场监管的实施，主管机构对期货和期权的法律、法规和规定的执行。磋商的目的是协助发展有效手段，以加强国内、国际期货、期权市场。

三、信息共享

主管机构愿就双方期货、期权市场的法律、法规和规定的信息进行共享，也包括这些法律、法规和规定的实施和解释。

第二章　为中国证监会的发展提供技术援助

一、技术援助

美国商品期货交易委员会愿就中国内的期货、期权市场

的发展、管理和运作与中国证监会磋商并提供咨询。磋商应首先确定主管机构认为适宜和合理的技援种类。技术援助除应包括信息和建议的提供，还可包括人员培训，用以发展以下事项：

（一）改善市场的风险管理、价格发现和对冲功能的系统；

（二）期货、期权产品以及设计不易被操纵的合约的基本要素；

（三）交易委托处理系统；

（四）交易记录和交易比较系统；

（五）报价和成交数据传输系统；

（六）交割机制；

（七）与市场从业人士、产品和市场相关的监管要求和最佳作法；

（八）与金融监控相关的系统和监管机制；

（九）为有效监控市场和执法项目而设立的机制；

（十）保护期货、期权的客户及市场参与者的信息披露及其它程序和办法；

（十一）尽量透明的信息。

二、具体技术援助

可按以下几种方式提供具体技术援助：

（一） 美期交会工作人员对法律和法规草案提供意见；

（二） 美期交会工作人员或其他有关专家提供有关期货和期权市场的咨询；

（三） 期货、期权监管的一般性培训项目；

（四） 在达成必要的保密协议的前提下，安排中国证监会的工作人员在美期交会短期实习。

三、资源

主管机构认识到具体技术援助应是在资源和国内立法许可的范围内进行的。

第三章　合作

根据第四章第二条，各主管机构可给予以下方面的协助：

（一） 经营期货业务的许可证颁发；

（二） 适用于期货业务的法律、法规的遵守情况；

（三） 适用于期货交易所及其它市场的法律、法规的遵守情况；

（四） 期货交易所会员及其它市场参与者遵守期交所规定的情况；

（五） 预防和稽查期货、期权欺诈以及其它与期货、期权合约的要约或买卖相关的违规交易活动。

第四章　实施

一、法律、法规和要求

主管机构已就与信息使用及保密有关的法律、法规和要求交换了一般信息。

二、请求

依据第三章的协助请求，提出和执行这些请求的程序，信息的批准使用，保密要求及本备忘录未明确阐明的其它事宜，应本着一案一例的原则处理。

三、固定联系人

为进一步确保本谅解备忘录的有效执行并便于主管机构之间的沟通，主管机构特指定附录 A 中列出的官员为固定联络人。

第五章　　后续谅解

一、主管机构计划经常评议本谅解备忘录的执行情况，以促进双方的沟通。鉴于此，一旦中华人民共和国及/或美利坚合众国有新期货、期权法生效，主管机构将考虑是否将此谅解备忘录进行补充或替代。

二、在执行此谅解备忘录的经验基础上，主管机构将努力达成更加正式的信息共享安排。

第六章　生效日期及终止

一、生效时间

本谅解备忘录将于中国证监会和美期交会签署之日起生效。

二、终止

任何一方在任何时间以书面形式通知另一方 30 天后，此备忘录即告终止。本备忘录的终止将不影响在终止日期生效前的协助请求。本备忘录于 2002 年 1 月 18 日在华盛顿签订，一式两份，每份均用中文和英文写成。

中国证券监督管理委员会	美国商品期货交易委员会
代　表	代　表
周小川 主席	詹姆斯 纽瑟姆 主席

附　录 A

中国证券监督管理委员会指定的联系人为：

国际合作部主任
中国证监会
金阳大厦
金融大街 16 号
西城区，北京 中国
邮政编码：100032
电话：8610 6621 0205
传真：8610 6621 0206

美国商品期货交易委员会指定的联系人为：

国际事务办公室主任
美国商品期货交易委员会
拉法耶特中心 3 号
西北区第 21 大街 1155 号
美国华盛顿特区
邮政编码：20581—0001
电话：202 418 5645
传真：202 418 5548