

# SECURITIES REGULATION IN SINGAPORE: THE CITY-STATE AS AN INTERNATIONAL FINANCIAL CENTER

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## INTRODUCTION

Since becoming an independent state in 1965,<sup>1</sup> Singapore has grown from an underdeveloped trading port with a largely poor and uneducated population<sup>2</sup> to one of the world's most rapidly developed economies.<sup>3</sup> Numerous statistics attest to the city-state's successful transformation into an Asian economic powerhouse. It has almost no unemployment, low inflation, no foreign debt, per capita income that is the second highest in Asia after Japan, and an annual growth rate that has averaged eight percent over the past two decades.<sup>4</sup> This remarkable development has been achieved despite the limitations imposed by Singapore's small size; the island republic covers just over 600 square kilometers and has a population under three million.<sup>5</sup>

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1. Singapore gained its full independence from Britain in 1963 and joined with recently independent Malaya to form the Federation of Malaysia. Two years later, on August 9, 1965, Singapore was separated from the Federation of Malaysia by mutual agreement and became an independent state. This history is described in *DOING BUSINESS IN SINGAPORE 2* (Price Waterhouse ed., 1993) [hereinafter Price Waterhouse].

2. On the underdeveloped state of the Singaporean economy at the time of independence, see JON WORONOFF, *ASIA'S 'MIRACLE' ECONOMIES* 122 (1986). A Western travel magazine correspondent writing just five years before Singapore's independence described the city's impoverished conditions as follows: "The Chinese, who constitute the main current of the city, live in utter filth and poverty. Their poverty is phenomenal. One must see with his own eyes to believe it." *Quoted in* Kieran Cooke, *Victim of Its Own Success*, *FIN. TIMES*, June 1, 1992, § 4, at 1.

3. See *Singapore and the Problems of Success*, *ECONOMIST*, Aug. 22, 1992, at 25.

4. Dick Wilson, *Singapore: The Pride of the Lion City*, *MGMT. TODAY*, Oct. 16, 1992. To put Singapore's economic development in a Western perspective, Singapore's per capita income is now higher than that of Italy. Andrew Cowley, *Burning Bright*, in *Asia's Emerging Economies Survey*, *ECONOMIST*, Nov. 16, 1991, at 3.

5. These statistics are taken from *Singapore at a Glance*, *NIKKEI WKLY.*, Aug. 29, 1992, at 20.

Moreover, the country has no significant natural resources other than its deep water harbor.<sup>6</sup>

The Singapore government has been by far the dominant player in the city-state's economic success story. The government maintains the primary role in all aspects of economic policy-making and for the most part has not incorporated the private sector into the process.<sup>7</sup> Moreover, although Singapore has thrived by being open to international investment, the direct influence of foreign interests on the economic policy process is likewise very limited.<sup>8</sup> In Singapore, macro-economic strategy is strictly the prerogative of government planners. In fact, the government's control over economic decision-making is so pervasive that some commentators consider Singapore's economy to be the most heavily state-planned economy outside the Communist world.<sup>9</sup>

This Article focuses on one aspect of the Singapore government's economic policy: the regulation of the securities market. In particular, the Article examines the relationship between the regulation of the securities market and the city-state's prospects for developing into a major international financial center. Part I briefly discusses the origins of Singapore's economic success and looks at the increasingly important role that services, particularly financial ones, are playing in the economy. Part II examines the regulation of the securities market and discusses the need for reforms in this area. This section focuses on how Singapore's securities regulators have damaged the city-state's reputation in the international financial community by their extreme cautiousness and their efforts to restrict the free flow of information. Part III then considers the degree to which Singapore's heavy-handed regulatory environment, together with the rapid development of the financial systems of larger neighbors, threatens to spoil the city-state's aspirations to be a world-class financial center.

## I. SINGAPORE'S ECONOMIC DEVELOPMENT AND THE ROLE OF FINANCIAL SERVICES

Singapore's rapid economic development stems from the large number of foreign multinational corporations that have established manufacturing facilities and regional headquarters on

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6. Price Waterhouse, *supra* note 1, at 4.

7. See Linda Lim, *Singapore's Success: The Myth of the Free Market Economy*, 23 *ASIAN SURVEY* 752 (1983); G. Bruce Knecht, *Government Stars in Singapore's Show*, *BARRON'S*, Aug. 23, 1993, at 48. See also Kelly S. Nelson, *Two Countries Diverge in Development*, *ASIAN WALL ST. J. WKLY.*, July 20, 1992, at 10 (comparing the economic development strategies of Singapore and Taiwan).

8. *Id.*

9. Cooke, *supra* note 2.

the island.<sup>10</sup> The Singapore government traditionally attracted foreign multinationals to the island by combining a willingness to offer tax and other incentives and the availability of a low-wage work force.<sup>11</sup> Because of these attractions, Singapore has developed into a major manufacturing center for a variety of goods, including textiles, clothing, pharmaceuticals,<sup>12</sup> and computer components.<sup>13</sup> It also has become the primary center for ship-building and oil refining in Southeast Asia.<sup>14</sup>

The Singapore government's policies for attracting foreign multinationals to the island have been so successful that the city-state's economy has become dependent on foreign corporations to a remarkable degree.<sup>15</sup> For example, nine of the ten most profitable companies in Singapore are believed to be foreign owned, and foreign corporations are believed to hold in total about three-fourths of Singapore's business assets.<sup>16</sup> Moreover, all industries in Singapore are open to direct foreign investment, with the exception of public utilities, and an extremely high percentage of total industrial investment in Singapore is derived from foreign sources.<sup>17</sup> Other than a few facilities that are owned by government-controlled entities, almost all of the large manufacturing facilities in the country are foreign owned.<sup>18</sup> This

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10. David Sanger, *In Singapore, a Search for a Second Act*, N.Y. TIMES, Oct. 13, 1991, § 3, at 1. More than 3000 foreign companies have operations in Singapore. Cooke, *supra* note 2.

11. Steven Levingston, *Singapore's Continued Success Hinges on Ability to Stay Ahead of its Rivals*, ASIAN WALL ST. J. WKLY., Dec. 2, 1991, at 22.

12. Wilson, *supra* note 4.

13. More than half of the world's computer disk drives are manufactured in Singapore. Cooke, *supra* note 2. See also N. Balakrishnan, *Driving Force: Demand for PC Parts Lifts Singapore Growth*, FAR E. ECON. REV., Mar. 11, 1993, at 58. During 1990, production of computer disk drives accounted for nine percent of total manufacturing production in Singapore. *Singapore Sees Slowdown in Disk Drive Production*, ASIAN WALL ST. J. WKLY., Sept. 2, 1991, at 14.

14. Cooke, *supra* note 2. Singapore ranks as the world's third largest oil-refining center after Rotterdam and Houston. The five multinational companies with the largest oil refining operations in the city-state, Shell, Mobil, British Petroleum, Esso, and Caltex, have a combined refining capacity on the island of approximately one million barrels per day. REPUBLIC OF SINGAPORE, WALDEN COUNTRY REP., Nov. 5, 1992, available in LEXIS, Asiapc Library, COUREP File [hereinafter WALDEN COUNTRY REPORTS—SINGAPORE].

15. On Singapore's economic dependence on foreign companies, see, e.g., N. Balakrishnan, *Lion on the Prowl*, FAR E. ECON. REV., May 23, 1991, at 55.

16. Wilson, *supra* note 4.

17. From 1986 to 1990, investment from foreign sources constituted annually from between 82% to 89% of the total new investment commitments in manufacturing in Singapore. WALDEN COUNTRY REPORTS—SINGAPORE, *supra* note 14.

18. *Singapore: The Business Environment*, BUS. INT'L. FORECASTING, Dec. 28, 1992, available in LEXIS, Asiapc Library, BIFSVC File. Nine of the ten most profitable companies in Singapore are subsidiaries of foreign multinationals. The only true Singaporean company of the ten is Singapore Airlines. N. Balakrishnan, *Singapore Welcome*, FAR E. ECON. REV., Oct. 22, 1992, at 48.

high level of dependence on foreign multinationals did not threaten Singapore's economic security as long as the unique combination of factors that drew foreign companies to Singapore remained in place and these companies were content to keep their operations on the island.

In the past several years, however, one of the advantages that Singapore offered to foreign multinationals, that of a low-wage work force, has virtually evaporated. The city-state's rapid development and small population have caused chronic labor shortages<sup>19</sup> and have increased labor costs substantially.<sup>20</sup> Relative to other Southeast Asian countries, Singapore is now a high-wage country.<sup>21</sup> Because of this labor cost disparity, Singapore has become a less attractive manufacturing site for foreign companies, and a number of multinational corporations have moved their manufacturing operations out of Singapore in recent years.<sup>22</sup>

The rate at which foreign multinationals are leaving Singapore in search of lower-wage workers does not appear to be so brisk as to threaten immediately the republic's position as a regional manufacturing center. Despite its increasing labor costs, Singapore still offers foreign manufacturing businesses a well-educated, largely English-speaking work force,<sup>23</sup> one of the largest and most efficient container port facilities in the world, and, in general, an infrastructure base that is unrivalled by any of South-

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19. In 1992, total labor demand in Singapore was estimated to be 1.38 million while the total labor supply was only 1.32 million. Pacific Economic Cooperation Council, PAC. ECON. DEV. REP. 1992-1993, Summer 1992, at 36 [hereinafter PECC REPORT].

20. David James, *Southeast Asia's Flourishing Four: Singapore, Malaysia, Thailand, Indonesia*, E. ASIAN EXEC. REP., Dec. 1991, at 20, 22. Between 1981 and 1990, real wages in Singapore rose an average of 6.6% a year. Steven Levingston, *Singapore's Effort to Foster High-Technology Industry Begins to Bear Fruit, but Strains are Evident*, ASIAN WALL ST. J. WKLY., Sept. 2, 1991, at 14.

21. As of the end of 1991, wages in Singapore averaged US\$3.09 an hour, compared with US\$2.85 an hour in Hong Kong and US\$2.30 an hour in Indonesia. Levingston, *supra* note 20.

22. See Sanger, *supra* note 10. For a specific example of a foreign multinational that chose to move certain manufacturing operations off the island, see *AT&T To Move Production of Cordless Phones to Batam*, E. ASIAN EXEC. REP., Oct. 1991, at 8.

23. The official languages of Singapore are Malay, Mandarin, Tamil, and English. Although Malay is the national language, English is the language of administration and the main language of commerce. Price Waterhouse, *supra* note 1, at 3. Singapore has the highest percentage of English speakers of any Asian country. In recent years, however, there has been something of a backlash against English and the Western values that it allegedly transmits, as certain influential Singaporeans have pushed for greater use of Mandarin. See N. Balakrishnan, *Singapore: Fear of English*, FAR E. ECON. REV., Nov. 19, 1992, at 28.

east Asia's lower-wage economies.<sup>24</sup> Because of these continuing advantages, total foreign investment in manufacturing has actually been increasing over the past few years.<sup>25</sup>

Singapore's government has recognized, however, that over the long term the republic's economy will not be sustained by the kind of low-wage, labor-intensive manufacturing upon which the country's remarkable economic development was built.<sup>26</sup> With respect to attracting foreign investment in labor-intensive manufacturing, Singapore already faces stiff competition from Malaysia, Indonesia, Thailand, and the Philippines.<sup>27</sup> In the near future, countries such as Vietnam<sup>28</sup> and Bangladesh<sup>29</sup> that have even lower wage scales than Singapore's current competitors may liberalize their respective economies to attract foreign manufacturing business.<sup>30</sup> In short, Singapore's government is keenly aware that for the foreseeable future there will always be countries in Southeast Asia whose workers will work for considerably less than those in Singapore.

Because of the high level of competition for labor-intensive manufacturing investment, Singapore's economy is undergoing rapid structural changes, including a general shift from manufacturing to services and shifts from traditional industries to high-technology, high-value-added industries within manufacturing. As usual, Singapore's government is driving these changes by attempting to perform the difficult task of re-engineering the city-

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24. See *Investment in South-East Asia: Bubbling Along*, ECONOMIST, Jan. 9, 1993, at 61.

25. See Wilson, *supra* note 4. For example, total direct foreign investment in Singapore increased by 18% in 1991. Much of that increase was due to increased manufacturing investment in Singapore from the countries of the European Economic Community, whose combined investment in the republic rose by 57%. The proportion of Singapore's GDP attributable to the manufacturing sector has been declining, however. *Id.*; see also G. Pierre Goad, *Despite Competition, Singapore Posts Rise in Foreign Investment*, ASIAN WALL ST. J. WKLY., Feb. 8, 1993, at 19.

26. See, e.g., Levingston, *supra* note 11, at 22; James, *supra* note 20, at 22.

27. On these emerging economies, see Louis Kraar, *Asia's Emerging Export Powers*, FORTUNE (special issue, *Asia in the 1990s*), Fall 1989, at 43.

28. On foreign investment in Vietnam, see Minerva Lau, *Asian Firms Set Up Shop in Vietnam*, NIKKEI WKLY., Oct. 19, 1992, at 28; Sesto Vecchi, *Vietnam: Smoothing the Way to Joint Venture Agreements*, INT'L CORP. L., July/Aug. 1992, at 32; Murray Hiebert, *The Rise of Saigon*, FAR E. ECON. REV., Sept. 5, 1991, at 62.

29. On foreign investment in Bangladesh, see, e.g., S. Kamaluddin, *Gains from Garments*, FAR E. ECON. REV., Jan. 16, 1992, at 45; S. Kamaluddin, *Squaring the Circle*, FAR E. ECON. REV., Sept. 12, 1991, at 58.

30. On the continuing movement of labor-intensive manufacturing to lower-wage countries in Asia, see Andrew Cowley, *Triumphant Abroad in Asia's Emerging Economies Survey*, ECONOMIST, Nov. 16, 1991, at 7; PECC REPORT, *supra* note 19, at 81.

state's economy over a relatively short period without causing significant economic hardship.<sup>31</sup>

In the area of high-technology manufacturing, the government has directed its program primarily toward expanding the electronics, aerospace, and biotechnology industries.<sup>32</sup> To encourage this shift toward high-technology industries, it has withdrawn many of the tax and other economic incentives formerly provided to labor-intensive, low-technology businesses and has begun to reserve its economic rewards for companies in these targeted industries and others that engage in high-value-added activities.<sup>33</sup> In 1991, for example, the government created an approximately US\$1 billion fund to provide grants for public and private sector companies to conduct research and development projects in high-technology areas.<sup>34</sup>

Notwithstanding these efforts to foster high-technology manufacturing, Singapore's economic future rests principally on the service sector. Services already account for roughly seventy percent of the city-state's GNP, and the government is strenuously promoting further development of the service industries even as its support of manufacturers is becoming increasingly selective.<sup>35</sup>

The government's recognition that the service sector is the key to Singapore's future growth is evident in its encouraging certain manufacturing businesses to relocate their operations from the city-state to the so-called "growth triangle." The growth triangle, which covers an area within a fifty-kilometer radius around Singapore, is an economic zone created in 1989 to link Singapore, the southern Malaysian state of Johor, and Indo-

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31. See Levingston, *supra* note 11, at 22. The types of economic problems typically encountered by other Asian countries in which the economy has undergone, or is currently undergoing, a shift from low-technology to high-technology activities include a shortage of skilled workers, a mismatch of skills and needs in the labor market, and an uneven flow of capital and resources from declining to rising industries; see also PECC REPORT, *supra* note 19, at 24, 37.

32. See Wilson, *supra* note 4.

33. The incentives include tax holidays of five to ten years for companies that qualify for "pioneer status" in new industries, as well as expansion incentives and investment allowances. WALDEN COUNTRY REPORTS—SINGAPORE, *supra* note 14. One foreign multinational that has taken action to benefit from this change in government policy is General Electric, which recently converted certain of its operations in Singapore from making radios to making aviation equipment. Sanger, *supra* note 10.

34. For a detailed description of the operation of this fund and other research and development incentives, see Richard Weisman & Tee Kheng Chew, *Singapore: R & D Incentives*, E. ASIAN EXEC. REP., May 1992, at 7; see also *Other Capital Incentives: Singapore*, FIN. FOREIGN OPERATIONS, July 1, 1992 available in Westlaw, BUS-INTL database; WALDEN COUNTRY REPORTS—SINGAPORE, *supra* note 14.

35. Wilson, *supra* note 4.

nesia's Riau Islands (principally Batam and Bintan).<sup>36</sup> The brainchild of Singapore's government, the growth triangle is intended to allow multinational corporations to take advantage of the benefits offered by each of the three constituent economies: the abundant and relatively inexpensive land and labor of Johor and the Riau Islands and the advanced service infrastructure and managerial and technical expertise of Singapore.<sup>37</sup> With the development of the growth triangle, Singapore's government hopes that manufacturers looking for a lower-cost environment will be able to relocate off-shore while still maintaining a Singaporean nexus.

Within the service sector, the government has identified financial services as a key source of growth.<sup>38</sup> Although Singapore is already generally recognized as the third most important financial center in Asia behind only Tokyo and Hong Kong,<sup>39</sup> the government foresees opportunities for the city-state's financial markets<sup>40</sup> to gain increased international significance. A few years ago, Singapore's leaders even had hopes that the uncer-

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36. On the "growth triangle," see Andrew Cowley, *Geography and Geometry*, in *Asia's Emerging Economies Survey*, *ECONOMIST*, Nov. 16, 1991, at 9; *Growth Triangle Targets Japanese as Key Investors*, *NIKKEI WKLY.*, Aug. 29, 1992, at 20; *Singapore: Agreement with Malaysia and Indonesia*, *INT'L FIN. L. REV.*, Apr. 1991, at 41; *Economic Zones/Southeast Asia: Singapore*, *BUS. ASIA*, Sept. 7, 1992 available in Westlaw, BUS-INTL database [hereinafter *Economic Zones*]; PECC REPORT, *supra* note 19, at 29.

37. *Economic Zones*, *supra* note 36. The growth triangle has already attracted a number of major multinational corporations, including Hitachi (chemicals), Sharp (VCRs), Matsushita (consumer electronics), and Thomson (audio equipment) to Johor and Sumitomo (automotive wire harnesses), AT&T (cordless phones), Thomson (TV components), and Seiko Epson (watches) to Batam Island. *Id.* In general, it is envisioned that Batam will have a labor-intensive industrial base and Johor will be a base for medium-technology industries. See Price Waterhouse, *supra* note 1, at 14.

38. During 1989 and 1990, the financial and business services sectors were the fastest growing sectors of Singapore's economy, growing by 15.1% and 14.9%, respectively. Since then, the growth of these sectors has slowed, but financial and business services continue to be an important component of Singapore's overall economic growth. *Money and Banking* [Singapore], *COUNTRY PROFILE*, July 1, 1992, available in Westlaw, BUS-INTL database. Singapore's influential senior statesman and former Prime Minister Lee Kuan Yew has called the financial sector "the jewel of the Singapore economy." Kunda Dixit, *Singapore: Trying to Keep its Dragon Strength*, *INTER PRESS SERVICE*, Jan. 7, 1993, available in LEXIS, Asiapc Library, INPRES File. On the financial sector's growth during 1992, see Robert Ng, *Financial Sector Posts Significant Growth in Value-Added*, *STRAITS TIMES*, July 15, 1993, at Back.

39. See John Peet, *The Booming Orient*, in *Financial Centres Survey*, *ECONOMIST*, June 27, 1992, at 12, 17.

40. Singapore's financial markets include the money market, the capital markets, the foreign exchange market, the Asian dollar and bond markets, the insurance and reinsurance markets, the shipbroking market, the gold and other commodity markets, and the financial futures market. See WALDEN COUNTRY REPORTS—SINGAPORE, *supra* note 14.

tainty surrounding Hong Kong's return to Chinese sovereignty in 1997 would cause a widespread relocation of financial business from Hong Kong to Singapore.<sup>41</sup> Although such ambitions have faded as Hong Kong has flourished in the wake of the People's Republic of China's ongoing economic liberalization,<sup>42</sup> Singapore's government still hopes to upgrade the city-state's international financial role.

To encourage financial businesses to move their operations to the city-state, the government has introduced a series of special economic incentives for financial institutions. These incentives include a preferential tax rate for many securities business activities<sup>43</sup> and significant tax deductions for research and development projects undertaken by large financial institutions.<sup>44</sup> Singapore's government is also intent on maintaining its infrastructural lead over other major Asian cities, particularly in those areas, such as telecommunications and transportation, that attract the regional operations of international financial institutions.<sup>45</sup>

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41. See *With Chinese Takeover Looming, Hong Kong Firms Flee to Singapore*, L.A. TIMES, June 3, 1991, at D8 (reporting that several banks, including Chemical Bank, Bankers Trust, Morgan Guaranty Trust, and Chase Manhattan Bank, did move certain operations from Hong Kong to Singapore following the Tiananmen Square massacre). See also Catherine Ong, *Austria's Leading Bank Moving HK Operations to Singapore*, BUS. TIMES (SING.), Dec. 7, 1992; Michael Collins, *Regional Centres Entice Hong Kong Firms to Flee*, AGENCE FRANCE PRESSE, Feb. 23, 1992, available in LEXIS, Nexis Library, AFP File. Another factor that some observers believed might cause foreign financial institutions to transfer some or all of their Southeast Asian operations from Hong Kong to Singapore is the tremendously high cost of commercial office space in Hong Kong. Office space rentals per square foot in Hong Kong's Central District, for example, are on the average approximately twice the rent of prime business district office space in Singapore. See John Serjeant, *Rents Could Force Multinationals Out*, S. CHINA MORNING POST, July 14, 1993, at 1.

42. See, e.g., Simon Davies, *Dreams of China Keep Hong Kong in Favor*, FIN. TIMES, May 16, 1992, at 21; Jeremy Grant, *HK Shrugs Off 1997 Fears as China Business Booms*, Reuters, Apr. 19, 1992, available in LEXIS, Nexis Library, REUTER File; Yasushi Watanabe & Nozomu Kitadai, *Colony Holds Own Despite Singapore's Allure*, NIKKEI WKLY., Mar. 28, 1992, at 32.

43. Since 1992, income derived from arranging, underwriting, managing, and placing international securities issued from Singapore to non-residents by non-resident companies has been taxed at the preferential rate of 10%. Previously, the 10% preferential rate only applied to income derived from trading in such securities. [Singapore:] *Exemption from Double Taxation*, E. ASIAN EXEC. REP., Apr. 1991, at 7; see also Roger Lorence & Richard Shapiro, *Singapore Strives to be the "Luxembourg of the Pacific Rim"*, J. INT'L. TAX'N., Jan. 1993, at 43.

44. See *Singapore: A Tax Boost for Financial R & D*, BUS. TIMES (SING.), Feb. 29, 1992.

45. See *Singapore: The Business Environment*, supra note 18, reporting that Singapore's government plans to invest heavily during the next decade in improving the quality of its telecommunications infrastructure and increasing the quality and capacity of its port and airport facilities. For a comparison of Singapore's infrastructure spending plans with those of certain other Asian countries, see Marcus Brauchli, *For Thrifty Asia, Rainy Day Has Arrived*, WALL ST. J., July 15, 1993, at A8.

Further growth of the financial sector is central to the government's plans to develop the city-state into the premier business services hub for Southeast Asia.<sup>46</sup> Such growth is, however, by no means assured. Although Singapore's government has succeeded remarkably over the past twenty years in carving out a niche for Singapore as a significant Asian financial center, past accomplishments are no guarantee of future success. As the movement toward financial deregulation accelerates in Southeast Asia,<sup>47</sup> the region is becoming increasingly crowded with aspiring financial centers. Australia,<sup>48</sup> Indonesia,<sup>49</sup> Malaysia,<sup>50</sup> Thailand,<sup>51</sup> and Taiwan<sup>52</sup> are all developing financial centers that may

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46. See, e.g., Amy Balan, *New Plans to Boost Singapore as Region's Financial Centre*, BUS. TIMES (SING.), Sept. 30, 1992, at 1.

47. See Steven Levingston, *Thirst for Funds Speeds Asian Financial Reform*, ASIAN WALL ST. J. WKLY., Oct. 28, 1991, at 1. On Japanese interest in Southeast Asian financial markets, see Peter McGill, *Japanese in Asia: Banks and Brokers Back Asian Boom*, EUROMONEY, Dec. 1992, at 97.

48. See, e.g., John Kavanagh, *Australia: Tax Haven—How to Set the Shark Net*, BUS. REV. WKLY. (AUSTL.), Apr. 24, 1992, commenting on the Australian government's plans to promote Sydney as a regional financial center by reducing its tax rates on financial business activity. See also Alan Murray and Ian Peterson, *Australia Opens Doors to Banks and Investors*, INT'L. FIN. L. REV., Apr. 1992, at 9.

49. See Tony Shale, *Indonesia Stock Exchange: Which Way Forward*, EUROMONEY, Sept. 21, 1992, at 86, commenting on the regulatory efforts of Indonesia's Finance Minister to bring the country's financial markets up to international standards of fairness and integrity. See also William Keeling, *Foreign Ownership Talk Brings Jakarta to Life*, FIN. TIMES, June 25, 1993, at 40; Richard Borsuk, *Unexpected Strength Lures Foreigners to Jakarta Stocks*, ASIAN WALL ST. J. WKLY., Feb. 15, 1993, at 25; *Indonesia: Paving the Way for Growth*, INSTITUTIONAL INVESTOR, Nov. 29, 1992, at 172; Julia Leung, *Indonesia's Banks Taste Sour Side of Deregulation*, ASIAN WALL ST. J. WKLY., Dec. 21, 1992, at 1; *Indonesia: The Healing Begins*, INT'L. FIN. REV., Feb. 29, 1992, at 35.

50. See, e.g., *Booming Malaysian Bourse Draws Foreign Brokers*, BUS. TIMES (SING.), Dec. 28, 1992. Officials in Penang are hoping that the island will become the services and high-technology hub of a growth triangle linking Penang with northern Sumatra in Indonesia and southern Thailand. See *Malaysia; Powerhouse Penang*, ECONOMIST, May 22, 1993, at 39. The Malaysian government is also developing Labuan Island off the coast of its state of Sabah as an off-shore tax haven and financial center. See Stephen Duthie, *Labuan's Development as Offshore Center Takes Root, but its Appeal to U.S. Firms is Limited*, ASIAN WALL ST. J. WKLY., Sept. 21, 1992, at 18; Conrad de Aenlle, *Tax Haven Rises Out of Jungle to Help Steer Private Wealth*, INT'L. HERALD TRIB., Dec. 10, 1992 [hereinafter *Tax Haven Rises Out of Jungle*].

51. See, e.g., Cynthia Owens, *Securities Reforms May Give Thailand Edge Over Region's Emerging Markets*, ASIAN WALL ST. J. WKLY., Mar. 2, 1992, at 23. The financial reforms in Thailand have included simplifying stock listing procedures and strengthening the rules against market manipulations such as insider trading. *Id.* See also Richard Evans, *Thailand Tries to Handcuff Bangkok's Stock Manipulators*, GLOBAL FIN., Apr., 1993, at 46; Marcus Collins, *Reviving Thailand's Securities Market*, INT'L. FIN. L. REV., Feb. 1992, at 30; Paul Handley, *Capital's New Capital*, FAR E. ECON. REV., Sept. 24, 1992, at 106.

52. Taiwan's government has begun to open its banking and securities markets to foreign participation. See, e.g., Jane Kauffman Winn, *Banking and Finance in Taiwan: The Prospects for Internationalization in the 1990's*, 25 INT'L. LAW. 907 (1991); Elizabeth Lu, *Taiwan Aims to Evolve into Financial Center*, L.A. TIMES, Oct.

be capable in the future of competing with Hong Kong and Singapore for regional financial business.

All of these countries have domestic markets that are much larger than Singapore's, thus making Singapore extremely vulnerable to their competition. International financial institutions with operations in Singapore use the city-state primarily as a base from which to transact cross-border, regional business.<sup>53</sup> Singapore, for example, is a regional center for loan syndication, with much of the multi-bank funding for individual companies and infrastructure projects throughout Southeast Asia arranged in the city-state.<sup>54</sup> Singapore's very small domestic market for financial services in itself, however, holds little attraction for most international banks and brokerages.<sup>55</sup>

If one of the countries in the region with a significantly larger domestic market was able to develop its own financial center that was truly Singapore's equal, international financial institutions would have little reason to continue using Singapore as a regional base of operations. In a bigger country, such institutions would have the opportunity to transact large amounts of domestic, as well as regional, business. Singapore's continued development as an international financial center depends, therefore, on its ability to offer the financial world significant advantages over any of the city-state's larger regional rivals.

## II. REGULATION OF THE SECURITIES MARKET

### A. THE REGULATORY FRAMEWORK

Consistent with the reputation of Singapore's economy as one of the world's most highly regulated, the regulation of the securities industry involves a wide array of different and often-overlapping government authorities, statutes, and administrative regulations. Virtually every aspect of the industry is covered by more than one statute and under the jurisdiction of more than one regulator. Moreover, the Singapore government's regula-

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21, 1991; *Taiwan Strives to Become Regional Financial Center*, AGENCE FRANCE PRESSE, May 25, 1992, available in LEXIS, Nexis Library, AFP File.

53. See Tony Shale, *City-State Loses Its Glitter*, EUROMONEY, Jan. 1993, at 42, 44.

54. For examples of one day's loan syndication activity in Singapore see *Thailand: Loans Signed—Vichitban Construction Co., Ltd.—\$12.8M Term Loan*, EUROWEEK, Dec. 11, 1992 (Commonwealth Bank of Australia (Singapore) as arranger); *Indonesia: Loans Signed—PT United Tractors—\$30M Term Loan/SBLC Facility*, EUROWEEK, Dec. 11, 1992 (Swiss Bank Corp. (Singapore) and Yasuda Trust and Banking Co. (Singapore) as arrangers). On Singapore's role as a center for loan syndication generally, see Julia Leung, *Singapore is Starting to Narrow the Lead of Hong Kong Banks in Loan Syndication*, ASIAN WALL ST. J. WKLY., Oct. 26, 1992, at 31.

55. See Peet, *supra* note 39, at 17; Shale, *supra* note 53, at 44.

tory scheme leaves very little room for self-regulation by private sector players in the securities markets.<sup>56</sup> Although private industry associations exist, they do not play a significant regulatory role as do many of their counterparts in the United States.<sup>57</sup>

The primary statute governing securities trading is the Securities Industry Act ("SIA").<sup>58</sup> The SIA regulates all aspects of the securities business in Singapore, including the issuance and public offering of securities, the disclosure requirements of public companies, and the licensing and supervision of securities brokers, dealers, and advisors. The SIA, and the regulations made pursuant to the SIA, are administered principally by the Monetary Authority of Singapore ("MAS").<sup>59</sup>

The Companies Act,<sup>60</sup> which is administered by the Ministry of Finance ("MOF") through the Registrar of Companies and Businesses, also governs certain aspects of the securities industry. The Act, for example, includes prospectus requirements and other provisions governing the timing and method of public securities offerings.<sup>61</sup> In addition, the Companies Act contains restrictions against insider trading<sup>62</sup> that supplement the insider trading and manipulative practices provisions contained in the SIA.<sup>63</sup>

56. See David Yeow and Corinna Lim, *Singapore: The Sources, Regulation of, and Securities for Local Finance*, in *DOING BUS. IN ASIA* (1992).

57. Examples of private securities industry associations in the United States that play a significant regulatory role include the National Association of Securities Dealers, which regulates broker-dealers pursuant to the United States' Securities Exchange Act of 1934, 15 U.S.C. §§ 78a-78ll (amended 1990) [hereinafter U.S. Securities Exchange Act], and the National Futures Association, which, pursuant to authority granted in the Commodity Exchange Act of 1922, 7 U.S.C. §§ 1-25 (amended 1992) is responsible for establishing and enforcing training and fair practice standards for futures dealers, brokers, and advisors.

58. Securities Industry Act (Cap. 289, 1985 Ed.).

59. Price Waterhouse, *supra* note 1, at 53. The MAS also exercises all of the functions of a central bank, other than the issuance of currency. *Id.* at 58.

60. Companies Act (Cap. 50, 1990 Ed.). Unlike the SIA, which resembles the United States' securities laws, the Companies Act was modeled on the British and Australian companies laws. See Sara Zwart, *A Favorable Climate for Foreign Investment in Singapore*, 21 *INT'L. LAWYER* 362 (1987).

61. Companies Act, §§ 4, 400; see Walter C. Woon, *COMMERCIAL LAW IN SINGAPORE* 197 (1986). The prospectus requirement does not apply to private placements of securities that meet certain requirements; for example, if the securities are placed with not more than 50 sophisticated investors. For a summary of the private placement rules see T. C. Choong, *Singapore Opens Up to Foreign Investors*, *INT'L. FIN. L. REV.*, May 1991, at 34.

62. Companies Act, § 157(2) reads:

An officer or agent of a company shall not make improper use of any information acquired by virtue of his position as an officer or agent of the company to gain, directly or indirectly, an advantage for himself or for any other person or to cause a detriment to the company.

63. Sections 102 and 103 of the SIA deal with insider trading. Section 102 is modeled on Section 10b-5 of the U.S. Securities Exchange Act and is not limited to

The Companies Act also contains specific provisions with respect to the takeover of public companies. Although there are no general prohibitions on corporate mergers and acquisitions in Singapore, the act provides a framework for such activity. Specifically, the act sets out a timetable to be followed in a takeover transaction. This chronology defines the respective responsibilities of the acquiring and target companies with respect to disclosure and other matters throughout the acquisition process. For example, the act provides that once the prospective acquiror has a "firm intention"<sup>64</sup> of making a takeover offer, it must give no less than fourteen days' prior written notice of the intended offer to the prospective offeree,<sup>65</sup> file a copy of such notice with the Registrar of Companies and Businesses (and the Stock Exchange of Singapore if the offeree company is listed),<sup>66</sup> and make a public announcement of the offer in the newspaper.<sup>67</sup>

The mergers and acquisition provisions of the Companies Act are supplemented by the Singapore Code on Takeovers and Mergers ("Takeover Code"),<sup>68</sup> a non-statutory code issued by the MOF and administered by the Securities Industry Council ("SIC").<sup>69</sup> The Takeover Code, which is modelled on the London City Code on Takeovers and Mergers,<sup>70</sup> provides general principles and rules to be followed in takeovers or mergers of public companies. For example, the Takeover Code includes the general principle that partial offers for less than 100% of a com-

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insiders like Section 157(2) of the Companies Act. Section 102 makes it unlawful for any person to engage in a fraudulent practice or make a material misstatement in connection with the purchase or sale of any security. Section 103 makes it unlawful for any person who is, or has been during the preceding six months, connected to a company to deal in the securities of that company, if, by reason of such connection, he or she is in possession of information that is not generally available and that could have an impact on the price of the company's securities.

64. An offeror will be deemed to have a "firm intention" to make a takeover offer from the date it acquires 25% or more of the voting shares of a company, whether or not actual control exists. Companies Act, *supra* note 60, § 213(3).

65. *Id.* § 213(4).

66. *Id.* § 213(8).

67. *Id.* § 213(9).

68. The Singapore Code on Takeovers and Mergers (1985 revised edition). Like the provisions of the Companies Act pertaining to mergers and acquisitions, the Takeover Code only applies to takeovers of Singapore companies.

69. The SIC is comprised of representatives from the government, the MAS, and the private sector. The day-to-day administration of the Takeover Code is entrusted to the SIC's professional secretariat. In addition to administering the Takeover Code, the SIC has several advisory functions including advising the MOF on all aspects of the securities industry. Yeo Wee Kiong & Gary Pryke, *M & A the Singapore Way*, INT'L. CORP. L., Dec. 1991/Jan. 1992, at 33.

70. Although the Takeover Code is modeled on the London City Code, it has not been revised as frequently and does not reflect all of the recent changes to the London City Code. *Id.*

pany are discouraged<sup>71</sup> and the related rule that the SIC's prior approval must be obtained before a party may make a partial offer.<sup>72</sup> Pursuant to the Companies Act, the SIC is also empowered to issue interpretative rulings on the Takeover Code. These rulings, which generally are given in response to requests from the public, are known as practice notes.<sup>73</sup>

Securities trading in Singapore takes place on the main board of the Stock Exchange of Singapore and on two screen-based, over-the-counter trading systems, the Stock Exchange of Singapore Dealing and Automated Quotation system ("SESDAQ") and the Central Limit Order Book International system ("CLOB International"). The SESDAQ system handles trading in shares of small to medium-size companies with the growth potential to be considered future candidates for listing on the main board. As of early 1993, there were twenty-four companies listed on the SESDAQ system.<sup>74</sup> CLOB International is an over-the-counter market for trading in the shares of primarily Malaysian and Hong Kong companies.<sup>75</sup> All three markets are operated by the Stock Exchange of Singapore Limited ("SES"), a corporation that is owned by its member companies.<sup>76</sup>

For a security to be traded on an exchange, the issuer must comply with the exchange's listing requirements. The listing requirements are set forth in the SES's Listing Manual,<sup>77</sup> and listing discretion is exercised by the SES. The general criteria for listing on the Stock Exchange of Singapore include a five-year

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71. Takeover Code, *supra* note 68, General Principle 13.

72. *Id.* Rule 26.

73. Companies Act, *supra* note 60, § 213(18). See Woon, *supra* note 61, at 222.

74. Price Waterhouse, *supra* note 1, at 61. Through a link-up with the National Association of Securities Dealers Automated Quotation ("NASDAQ") system in the United States, some NASDAQ stocks are traded in Singapore through the SESDAQ system. *Id.*; see also *Equity Financing: Singapore*, FINANCING FOREIGN OPERATIONS, July 1, 1992, available in Westlaw, BUS-INT'L database.

75. Price Waterhouse, *supra* note 1, at 61; Philip Pillai & K.K. Teo, *Singapore, THE REG. GOVERNING BROKING: AN INT'L. GUIDE*, at 22, 23 (Supp. INT'L. FIN. L. REV., Dec. 1991).

76. The SES is run by a governing committee that consists of four elected members and five appointed members approved by the MAS, of whom at least two must represent listed companies and investors not affiliated with any member company. Pillai & Teo, *supra* note 75, at 23. In addition to functioning like the board of directors of a normal company, the governing committee has the authority to investigate misconduct and punish violations of the rules of the exchange. See Woon, *supra* note 61, at 207.

77. Stock Exchange of Singapore Listing Manual and Corporate Disclosure Policy. In addition to the Listing Manual, the SES issues periodic rules and regulations. Although these rules and regulations lack the force of law, they are well observed by members of the securities industry. For example, the SES has promulgated a rule that restricts directors of listed companies from dealing in the shares of their companies and its subsidiaries. See Andrew Ong, *Singapore: Stock Exchange—Regional Developments*, INT'L. CORP. L., Apr. 1992, at 44.

track record with profits during the preceding three years, strong growth prospects, and a minimum paid-in capital of S\$4 million.<sup>78</sup> The SESDAQ system and CLOB International have less stringent admission criteria.<sup>79</sup>

The participation of certain financial institutions in the securities market is further regulated by statutes specific to those institutions. The securities activities of banks, for example, are regulated partly by the Banking Act<sup>80</sup> and those of insurance companies by the Insurance Act.<sup>81</sup> There are also specific statutes applicable to certain securities intermediaries, such as the Futures Trading Act,<sup>82</sup> which governs futures brokers and dealers. Such statutes add additional complexity to the legal infrastructure of Singapore's securities industry.

Overarching the entire regulatory framework are the periodic directives of the MAS, which have compliance authority equal to any statute.<sup>83</sup> Among all of Singapore's securities regulators, the MAS is endowed with the broadest authority, with ultimate responsibility for the functioning of the markets.<sup>84</sup> In general, any securities activity that is not explicitly covered by another statute or regulation, such as the introduction of new financial products or the development of new markets, requires MAS approval.

## B. THE NEED FOR REFORM

The tight regulation of the securities industry makes Singapore's securities markets some of the most stable and secure in Asia.<sup>85</sup> This stability has in turn fostered the country's development as a regional financial center. In contrast to most of the countries in Southeast Asia with relatively undeveloped and un-

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78. Price Waterhouse, *supra* note 1, at 54. Although the minimum required paid-in capital is officially set at S\$4 million, in practice the SES generally requires paid-in capital of at least S\$20 million. *Id.*

79. *Id.* The admission criteria for the SESDAQ system, for example, includes the requirement that the issuer be a public limited company incorporated in Singapore with demonstrated potential for future growth.

80. Banking Act (Cap. 19, 1985 Ed.).

81. Insurance Act (Cap. 142, 1985 Ed.).

82. Futures Trading Act (Cap. 116, 1985 Ed.).

83. *See* Price Waterhouse, *supra* note 1, at 56.

84. *Id.* at 53, 54. Under Section 28 of the Monetary Authority of Singapore Act (Cap. 186, 1985 Ed.), the MAS has the statutory authority to, among other things, regulate any business operation in Singapore considered to have an effect on its development as a financial center or the general financial situation in Singapore. *See* Pillai & Teo, *supra* note 75, at 22.

85. Singapore's securities regulators have been named by at least one financial publication as the best in Asia in terms of overall effectiveness and ability. They were also ranked as by far Asia's strictest regulators. *See* Daniel Yu, *Asia's Best Securities Regulators*, ASIAMONEY, Apr. 1991, at 22.

regulated financial systems, Singapore traditionally has been seen as a safe place in which to make passive, as well as active, investments. As a result, much of the region's excess liquidity has flowed into Singapore for recycling into alternative forms of investment throughout the region, ranging from bank loans to direct foreign investment to portfolio investments.<sup>86</sup>

The strictness of Singapore's regulatory regime may, however, limit the country's opportunity to become a truly world-class financial center. Critics of Singapore's strict regulation argue that its markets are over-regulated and that the financial authorities place too much emphasis on stability and too little on growth.<sup>87</sup> They maintain that, in terms of both degree and kind, Singapore's securities regulation is significantly more restrictive than that of any other Asian securities market.<sup>88</sup> In particular, they fault the authorities for being overly cautious and for severely hampering the free flow of financial information.<sup>89</sup>

### 1. Singapore's Overly Cautious Regulators

The extreme cautiousness of Singapore's regulators is illustrated by their approach toward permitting new financial products to be traded on the Singapore stock exchanges.<sup>90</sup> In general, the authorities do not encourage financial ingenuity, and they must be convinced that a new instrument will benefit Singapore before permitting it to be marketed in the republic.<sup>91</sup> As a result, Singapore's markets have lagged behind other regional markets in terms of certain types of products traded.

Stock options are one of the financial products that have brought out the timidity of Singapore's regulators. In 1989, the MAS raised the possibility of permitting stock options trading in the near future. The authorities moved with characteristic caution, however, and did not introduce stock option trading until

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86. See, e.g., Cowley, *The Problems of Success*, in ASIA'S EMERGING ECONOMIES SURVEY, at 14, 16 (supp. THE ECONOMIST, Nov. 16, 1991) (describing Singapore and Hong Kong as "the bolt-holes for much of [Southeast Asia's] spare cash")

87. See Yu, *supra* note 85, at 22; Kieran Cooke, *Singapore Slumbers in Mood of Despondency—The Market is in the Slow Lane*, FIN. TIMES, Sept. 26, 1992, at 21; Shale, *supra* note 53. For an example of the Singapore authorities' response to such criticisms, see *Government Quite Content with a Tranquil Stock Market*, BUS. TIMES (SING.), Oct. 31, 1992.

88. Yu, *supra* note 85, at 22.

89. See Shale, *supra* note 53.

90. For an example of the cautious attitude that the Singapore authorities have with respect to derivatives, see, e.g., Conrad Raj, *MAS Acts to Control Derivatives*, BUS. TIMES (SING.), June 5, 1992, at 1. On the increasing significance of derivative products in international finance, see, e.g., Ann Morris, *How Derivatives are Changing Finance*, GLOBAL FIN., Nov., 1992, at 42.

91. See Graham Field, *Waiting for IPO's*, ASIAMONEY, Oct. 1991, at 57, 59.

March 1993.<sup>92</sup> Moreover, in order to assure the establishment of a stable market, they decided to gradually phase in options trading by initially permitting trading of options on only two of Singapore's most blue-chip stocks, Keppel Corporation and a class of Singapore Airlines shares reserved for foreign investors.<sup>93</sup>

After three months of very light trading in options on those stocks, the authorities moved to bolster the fledgling market by introducing options on two more blue-chip stocks, City Developments, Ltd., and NatSteel Ltd.<sup>94</sup> The introduction of two additional stocks has added some needed depth to the market. However, turnover of stock options remains very small and the market still lacks the necessary liquidity to attract the interest of most foreign institutional investors.<sup>95</sup> Furthermore, the introduction of other kinds of options, such as warrant and index options, has been put on indefinite hold until the authorities can assess the results of the stock option experiment.<sup>96</sup>

Measured against the primary concern of Singapore's financial regulators, namely avoiding volatile, speculation-driven markets, the introduction of stock options trading in Singapore could be considered a success. A thinly traded market of options on a few blue-chip stocks is, if nothing else, extremely stable. In two important respects, however, the authorities' efforts to guarantee a safe stock options market may be counterproductive to Singapore's goal of increasing its stature as an international financial center.

First, by permitting stock options only on Singapore's top blue-chip stocks, the authorities have removed from the market one of the primary factors that drives options trading, volatility. Investors in stock options can for the most part be divided be-

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92. See, e.g., Magdalene Ng, *Quiet Start to Singapore Options Trading*, BUS. TIMES (SING.), Mar. 9, 1993, at 1; Andrea Borch, *SES Reaches for the Regional Limelight*, INSTITUTIONAL INVESTOR, Apr. 29, 1993, at 28. Options trading was introduced once before on the Stock Exchange of Singapore, in 1977. That experiment with options ended after a few years of very light activity due to lack of investor interest. R. Sivanithy & Paul Leo, *More Must be Done to Attract Investors to Options Trading*, BUS. TIMES (SING.), Mar. 16, 1993 at 9.

93. See Ng, *supra* note 92; Borch, *supra* note 92. With regard to the reservation of certain Singapore Airlines shares for foreign investors, see N. Balakrishnan, *Unequal Equities*, FAR E. ECON. REV., Jan. 23, 1992, at 56.

94. Robert Ng, *Dealers Hope to See an Increase in Options Trading*, STRAITS TIMES, June 1, 1993, at 39.

95. *Id.*

96. Shale, *supra* note 53, at 44. With regard to derivatives other than stock options, SES President Lim Choo Peng stated in early 1993, "There are no new instruments under consideration. We will concentrate on [stock] options first and see how successful they are before making any other moves." *Id.*

tween "hedgers" and "speculators."<sup>97</sup> Hedgers buy stock options as a protective device to minimize losses that may occur because of price fluctuations in the underlying shares. Speculators buy stock options with the hope of profiting from such price fluctuations. For either type of investor, therefore, the rationale for options trading is precisely the kind of volatile price movements that Singapore's regulators have effectively removed from the stock options market by limiting it to a handful of safe, blue-chip stocks.<sup>98</sup>

Second, the long delay in introducing stock options trading has added considerably to Singapore's reputation for excessive financial regulation. While Singapore's authorities were gradually developing a plan to phase in stock options, the Kuala Lumpur Stock Exchange ("KLSE") introduced trading of both stock and index options.<sup>99</sup> The KLSE's move, which occurred in 1992, underscores the hesitancy of Singapore's regulators and could endanger the Singapore exchange's traditional position as one of Asia's leading stock markets.<sup>100</sup> If Singapore's market appears to fall behind those of Malaysia and other countries in the region in terms of innovation and receptiveness to new financial products, then foreign financial institutions may lose interest in Singapore.

Another example of the extreme cautiousness of Singapore's regulators is the pace of the government's privatization program. Since the mid-1980s, the government has discussed the possibility of privatizing certain of the republic's largest state-owned enterprises.<sup>101</sup> The primary goal of the privatization program would be to add much-needed breadth and depth to Singapore's equity markets.<sup>102</sup> As of January 1993, approximately fifteen percent of the Stock Exchange of Singapore's market capitalization was accounted for by one company, Singapore Air-

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97. See generally JOSEPH WALKER, *HOW THE OPTIONS MARKETS WORK* 7 (1991).

98. Sivanithy & Leo, *supra* note 92.

99. See Shale, *supra* note 53, at 44.

100. On the weakening of the Singapore exchange's position vis-a-vis other regional stockmarkets, see *East Asian Stockmarkets: Overhauled*, *ECONOMIST*, Oct. 24, 1992, at 89.

101. On Singapore's privatization plans see, e.g., G. Pierre Goad, *After Careful Study, Singapore Appears Ready to Restart Privatization Program*, *ASIAN WALL ST. J. WKLY.*, Dec. 7, 1992, at 24; Thio Su Mien, *Privatising the Mass Media in Singapore*, *INT'L. CORP. L.*, Jul./Aug. 1991, at 28.

102. See Tony Shale, *The Battle for Singapore Telecom*, *EUROMONEY*, April, 1993, at 34; *Telecom Float to Boost Bourse*, *S. CHINA MORNING POST*, Feb. 21, 1993, at 6; Ajay Sen, *Telecom's Float Seen as Tonic for Singapore's Market*, *REUTER ASIA-PACIFIC BUS. REP.*, Feb. 15, 1993, available in *LEXIS*, Asiapc Library, APBRPT File.

lines.<sup>103</sup> The market is so thin that the bulk of daily trading was, as of the beginning of 1993, confined to eight stocks, with very little turnover of other shares.<sup>104</sup>

The planned privatization would significantly increase the exchange's market capitalization and could propel the Stock Exchange of Singapore back among the ranks of Asia's largest stock exchanges.<sup>105</sup> The exchange lost much of its previous market capitalization at the end of 1989, after the Malaysian government announced that it wanted all stocks of Malaysian companies to be delisted from the Stock Exchange of Singapore.<sup>106</sup> At the time of the announcement, Malaysian companies accounted for 182 of the 329 stocks listed on the Stock Exchange of Singapore and thirty-seven percent of its market capitalization.<sup>107</sup> In response to the mass delisting of Malaysian companies from the exchange, Singapore's government announced its intention to accelerate its privatization program to add depth to the depleted local stock market.<sup>108</sup>

Since then, however, the privatization program has proceeded at a very deliberate pace. The element of the privatization program that has drawn the most attention to the Singapore market is the proposed listing of shares in Singapore Telecommunications Pte. Ltd. ("Singapore Telecom"), the cornerstone of the program.<sup>109</sup> Singapore Telecom is the republic's highly profitable

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103. Shale, *supra* note 102, at 34.

104. At the beginning of 1993, the eight stocks accounted for approximately 60% of daily trading. Shale, *supra* note 53, at 43.

105. Some market observers predict that if Singapore completes all of the privatizations that are currently under consideration, the Stock Exchange of Singapore will have one of the four largest market capitalizations in Asia. At present, the Singapore exchange trails the stockmarkets of Japan, Hong Kong, Malaysia, and Thailand in terms of market capitalization. See Borch, *supra* note 92; Caroline Chan & Robert Ng, *GLC's Float Might Make SES One of Asia's Largest*, STRAITS TIMES, Mar. 13, 1993, at 47.

106. See *Separation of Singapore and Kuala Lumpur Stock Exchanges*, 24 INT'L. LAW. 1142 (Winter 1990). See also Michael J. Scown, *Asia's Emerging Equities Markets*, E. ASIAN EXECUTIVE REP., Jan. 15, 1991, at 22, 24.

107. *Id.* Similarly, Singapore companies delisted from the KLSE. However, they accounted for only 54 of the 301 stocks listed on the KLSE and only 10% of its market capitalization. *Id.*

108. *Id.* The government also took a number of other steps to reduce the consequences of the delisting. For example, it established CLOB International to trade in the shares of Malaysian and other regional stocks. *Id.*; see also Peter Osborne, *Singapore Widening the Reach of its Stockmarket*, AUSTL. FIN. REV., Apr. 23, 1992, at 33.

109. Shale, *supra* note 102. The competition among international investment banks to win the prestigious mandate to act as global coordinator of the offering was fiercely contested. Goldman Sachs was ultimately selected out of a group of four finalists that also included Lehman Brothers, CS First Boston Group and S.G. Warburg & Co. *Id.*; see also Lim Mui Khi, *Singapore Telecom Posts Record Profit, Indicates Market Capitalization of \$10 Billion After IPO*, ASIAN WALL ST. J. WKLY., Feb. 22, 1993, at 23; *Singapore Telecom: Pick a Number*, ECONOMIST, June 19, 1993,

telephone utility. The government is expected to offer to the public up to twenty-five percent of the shares of the company, which could instantly increase the Stock Exchange of Singapore's market capitalization by as much as twenty percent.<sup>110</sup> The Singapore Telecom offering should also focus greater foreign institutional investor attention on Singapore, and, as a result, could increase market interest in later privatizations and in the Singapore stock market in general.<sup>111</sup>

The Singapore Telecom offering was originally scheduled for early 1992, but the government postponed the offering in March of that year, citing the need for further evaluation.<sup>112</sup> So much international attention had been focused on the Singapore Telecom offering that the announcement of its delay raised concerns about the depth of the government's commitment to privatization.

As in the case of options trading, these concerns were underscored by events in the Malaysian stock market. While Singapore's privatization program has been on hold, the Malaysian government has launched two highly successful privatizations. Malaysia's telecommunications utility, Telekom Malaysia, was privatized in 1990, and Tenaga Nasional, the country's electricity utility, was privatized in 1992.<sup>113</sup> Telekom Malaysia and Tenaga Nasional are by far the KLSE's largest stocks in terms of market capitalization and have been very popular with foreign institutional investors.<sup>114</sup> The success of these two offerings, together with the postponement of the Singapore Telecom privatization, has drawn attention to the contrast between Malaysia's aggressive program to rapidly develop its securities markets and Singapore's relative caution.

The Singapore government's failure to rush the privatization of Singapore Telecom and other government-owned companies is understandable. In contrast to most countries that have launched mass privatization efforts, Singapore has no need to

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at 83. On the competition among international law firms for roles in the offering, see Karen Dillon, *Goldman Helps U.S. Firms Win Singapore Beauty Contest*, AM. LAW., June, 1993, at 25.

110. Shale, *supra* note 102; see also *Singapore*, GUIDE TO WORLD EQUITIES 1993 (Supplement to EUROMONEY) 94, 97 (May, 1993) [hereinafter *World Equities—Singapore*].

111. Chan & Ng, *supra* note 105; Genevieve Cua, *Keen Foreign Demand Expected for Telecom Shares*, BUS. TIMES (SING.), July 6, 1993, at 9.

112. See Shale, *supra* note 102, at 34; Goad, *supra* note 101.

113. On these two privatizations, see *Malaysia*, GUIDE TO WORLD EQUITIES 1993 (Supplement to EUROMONEY) 86 (May, 1993) [hereinafter *World Equities—Malaysia*]; Michael Vatikiotis, *Vote of Confidence*, FAR E. ECON. REV., Nov. 19, 1992, at 71; Michael Vatikiotis, *Electrified Bourse*, FAR E. ECON. REV., June 11, 1992, at 54.

114. *Id.*

raise funds to balance its budget and its government-owned companies are generally well-managed and profitable.<sup>115</sup> Moreover, the delay in the privatization program does not appear to be indefinite. The Singapore Telecom offering is now scheduled to occur by late 1993,<sup>116</sup> and, depending on the market response to this offering, several other large government monopolies could be partly privatized in the next few years.<sup>117</sup> However, the privatization program has already been delayed for so long that Singapore's reputation for excessive caution has been strongly reinforced.<sup>118</sup>

The regulation of the fund management business in Singapore is another area in which the country's financial regulators have treaded very cautiously. Despite its small size, Singapore has a number of characteristics that are appealing to the international fund management industry. The city-state, for example, has one of the highest domestic savings rates in the world<sup>119</sup> and an extremely well developed telecommunications infrastructure that makes the republic a convenient base from which to perform regional fund management activities.<sup>120</sup> Moreover, the authorities have vigorously promoted the development of the fund management sector<sup>121</sup> by, among other measures, introducing tax incentives for fund management activity.<sup>122</sup> As of January 1993,

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115. See Shale, *supra* note 53, at 44; Cooke, *supra* note 87; *The Singapore Strategy*, BUS. TIMES (SING.), Feb. 16, 1993, at 27.

116. See G. Pierre Goad, *Singapore Stock Sale is Seen as a Prelude to Telecom Offering*, ASIAN WALL ST. J. WKLY., May 17, 1993, at 29, reporting on the plans to offer 25% of the stock of government-owned Singapore Technologies Industrial Corp. to the public as a lead-up to the Singapore Telecom offering.

117. Other monopolies that have been mentioned as privatization candidates include Singapore Rapid Mass Transit, the Civil Aviation Authority of Singapore, the Port Authority of Singapore, and the Singapore Broadcasting Corp. See Shale, *supra* note 102, at 34; Osborne, *supra* note 108.

118. For criticisms of the pace of the privatization program see Shale, *supra* note 53, at 44, quoting Christopher Chong, research director of Singapore securities firm Kay Hian James Capel: "Privatization has been delayed here for too long and many investors, particularly foreigners, have become frustrated." On a recent announcement of a further delay in the timing of the offering, see G. Pierre Goad, *Telephone IPO in Singapore May Get Trim*, WALL ST. J., July 23, 1993, at B5.

119. See Cowley, *supra* note 4, at 4.

120. On Singapore's telecommunications infrastructure, see Larry Donovan, *Wired for Trade in Singapore*, FIN. TIMES, July 20, 1993, at 7.

121. See Shale, *supra* note 53, at 44; see also Angus Foster, *Hong Kong as a Financial Center: Fear Beneath the Optimism*, HONG KONG SURVEY, FIN. TIMES, Nov. 20, 1991, at 1. The fund management business in Singapore and the types of incentives that have been offered to foreign fund managers to establish operations in the city-state are discussed in Jin Hwee Tan & Damien Yeow, *Singapore in Fund Mgmt: A Legal Guide to the World's Investment Fund Markets* (supplement to INT'L FIN. L. REV.), May 1992, at 53.

122. In 1992, for example, the Singapore Income Tax Act (Cap. 134, 1992 Ed.) was amended to authorize the MOF to apply a concessionary 10% rate of tax on the income of approved trustee companies. See Tan & Yeow, *supra* note 121, at 58.

however, their promotion efforts have fallen short of what would be required to develop a truly thriving fund management industry in the city-state.<sup>123</sup>

The development of the fund management industry in Singapore has been hampered by the longstanding government monopolization of domestic savings. The bulk of Singapore's domestic savings are controlled by two governmental bodies, the Central Provident Fund ("CPF") and the Government of Singapore Investment Corporation ("GSIC").<sup>124</sup> The CPF is Singapore's national pension fund, which receives mandatory contributions from virtually all employees and employers in the city-state.<sup>125</sup> The GSIC is the investment arm of Singapore's government that manages the country's considerable reserves.<sup>126</sup> Together, the CPF and the GSIC constitute a roughly US\$50 billion pool of investment funds.<sup>127</sup> This pool of funds holds the greatest attraction in Singapore for the fund management industry.<sup>128</sup>

For the most part, however, responsibility for investing the funds held in the CPF and the GSIC has not been delegated to private fund managers. Approximately eighty percent of GSIC's funds, for example, are managed in-house by GSIC's professional staff.<sup>129</sup> The majority of the assets of the CPF are similarly outside the reach of private fund managers.<sup>130</sup> Aside from these

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123. Shale, *supra* note 53, at 44.

124. *Id.*

125. Price Waterhouse, *supra* note 1, at 60. CPF contributions are withheld from payroll. Although contribution rates vary depending on wage levels and are subject to prescribed maximums, in general the employee contributes slightly over 20% of his or her total wages and the employer contributes slightly under 20%. The Fund makes a lump-sum payment to the employee at the normal retirement age (55), which payment represents the past contributions of the employee and his or her employer and the interest thereon. *Id.* at 90.

126. Henry Sender, *The Smart Money of Singapore, Inc.*, INSTITUTIONAL INVESTOR, Aug. 1992, at 59. Management of the country's reserves was at one time one of the responsibilities of the MAS. However, in 1981 the investment responsibilities were spun off from the MAS and the GSIC was established as a separate entity. *Id.*

127. Shale, *supra* note 53, at 45.

128. *Id.*

129. Sender, *supra* note 126.

130. Individuals are given limited freedom to direct the investment of that portion of their money in the CPF known as their "ordinary accounts." A certain percentage of a fund member's ordinary account, which in the aggregate constitute approximately 75% of the assets of the CPF, may be invested in a combination of Singaporean stocks, convertible loan stocks, unit trusts, and gold. Partially in response to pressure from the fund management industry, this percentage was recently raised from 40% to 80%. As a result, the amount of CPF funds which are invested through private fund managers is expected to increase. See *Singapore: Investment Rules are Relaxed on Singapore CPF*, GLOBAL MONEY MGMT., May 31, 1993 available in LEXIS, Asiapc Library, IINEWS File; Caroline Chan & Robert Ng, *Impact of Liberal Use of CPF Funds for Investment Will be Felt Near Year-End*, STRAITS

funds, a few cash-rich corporations, and wealthy Singaporean families, there are very few other large pools of investment capital in the city-state.<sup>131</sup> As a result, many international fund management firms have found that the market for private fund management in Singapore is simply too limited to support a large operation.<sup>132</sup>

The Singapore government's programs to introduce stock options trading, privatize state-owned companies, and develop a substantial fund management industry all follow a similar pattern. The primary goal of each program is to add needed breadth and depth to the local securities markets, which should, in turn, bolster Singapore's position as a financial center. In all three cases, however, the government has chosen to maintain tight control over the market at the expense of achieving significant growth in the target area. Although each of these programs has the potential to strengthen Singapore's securities markets substantially, none of the programs will succeed to the maximum extent possible unless Singapore's cautious financial regulators give market forces greater freedom to dictate the pace and extent of the reforms.

## 2. *Government Restrictions on the Free Flow of Information*

In addition to accusations of moving too cautiously, Singapore's regulators are also criticized for overzealous efforts to control the flow of financial information in the city-state.<sup>133</sup> This criticism goes to the heart of the tension between the Singapore government's passion for regulation and control and its desire to develop the republic as an international financial center.<sup>134</sup> Although certain restrictions, such as those against the release of

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TIMES, Mar. 16, 1993, at Back. Fund managers, however, will only be allowed to handle CPF investments funds of at least S\$200,000 per individual, and it is estimated that very few Singaporeans have that large of an amount in their CPF ordinary accounts. See Chan Sue Meng et al., *New Scheme to Give Boost to Financial Institutions*, STRAITS TIMES, Aug. 5, 1993, at 36.

131. Sender, *supra* note 126; Shale, *supra* note 53, at 45.

132. See Shale, *supra* note 53, at 44, reporting that several foreign fund management firms (including Rothschild Asset Management, GT Management, and Wardley Investment Services) have decided to scale down their operations in Singapore over the past year.

133. Peet, *supra* note 39, at 17.

134. The Singaporean government's efforts to maintain tight control in the republic extends to even the seemingly most mundane aspects of economic, political, and social life in the city-state. Singapore, for example, has attracted a great deal of foreign attention for its numerous government-sponsored campaigns to instill virtues such as courtesy, cleanliness, and punctuality in its citizens. Among the government's recent campaigns have been ones to encourage Singaporeans to arrive at wedding parties on time and to not be too greedy at buffet lunches. See Victor Mallet, *Sing Singapore*, FIN. TIMES, Aug. 19, 1993, at 6.

insider information, are necessary to maintain the integrity of financial markets, in general the free exchange of information plays an essential role in the proper functioning of those markets. In fact, the opportunity for market participants to exchange information is one of the primary centripetal forces that has led to the development of financial centers.<sup>135</sup>

Singapore's government, however, has never placed a high value on the free flow of information.<sup>136</sup> For a country known for its advanced communications and information processing infrastructure, the government exercises a remarkable degree of control over the dissemination of information in the city-state.<sup>137</sup> Individual Singaporeans, for example, are not allowed to own satellite dishes, because they could use them to receive unauthorized broadcasts, and the circulation of magazines and newspapers in the republic is closely monitored and controlled.<sup>138</sup>

Financial information is not immune from the Singapore government's controls. One well-publicized example of the government's efforts to maintain control over the dissemination of financial information is its extended dispute with Dow Jones & Company over the *Asian Wall Street Journal*.<sup>139</sup> In February 1987, the government ordered that the daily circulation in Singapore of the *Asian Wall Street Journal* be curtailed to 400, after the government accused the paper of interfering in the country's do-

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135. See John Peet, *Magnetic Attractions*, in *Financial Centres Survey*, ECONOMIST, June 27, 1992, at 5.

136. See, e.g., Rajendra Sisodia, *Singapore Invests in the Nation-Corporation*, HARV. BUS. REV., May-June, 1992, at 40, 48. Article 14(1) of Singapore's Constitution provides for freedom of speech, expression, assembly, and association, but these rights are significantly circumscribed by the provision that the Parliament may impose on such rights "such conditions as it considers necessary or expedient in the interests of the security of Singapore . . ." Beatrice S. Frank et al., *The Decline in the Rule of Law in Malaysia and Singapore: Part II—Singapore* (a report of the Committee on International Human Rights), THE RECORD OF THE ASS'N OF THE BAR OF THE CITY OF N.Y., Jan./Feb., 1991, at 1, 69. See also BRIAN KELLY & MARK LONDON, *THE FOUR LITTLE DRAGONS* 364 (1990), quoting influential deputy prime minister and brigadier general Lee Hsien Loong as follows: "We recognize no first amendment right to freedom of the press. We do not aim to approximate U.S. practice as an ideal."

137. See Sisodia, *supra* note 136, at 48, commenting on the inherent tension between the Singaporean government's ambitious information technology plans and its longstanding policy of strictly controlling information. See also *Asia and the Global Village*, FIN. TIMES, Aug. 4, 1993, at 11.

138. Sisodia, *supra* note 136, at 48.

139. In addition to the *Asian Wall Street Journal*, the Singaporean government has had ongoing disputes with Dow Jones & Company over another of its publications, the *Far Eastern Economic Review*. See, e.g., Ian Stewart, *Singapore: Government Eases Curbs on News Magazine*, S. CHINA MORNING POST, Nov. 15, 1991, at 15. The government has also at various times restricted the circulation of *Time* and *Asiaweek* magazines. WALDEN COUNTRY REPORTS—SINGAPORE, *supra* note 14.

mestic politics.<sup>140</sup> At that time, the paper was selling approximately 5000 copies a day in Singapore. The government also prohibited the paper from stationing any correspondents in Singapore.<sup>141</sup>

The government's accusation stemmed from the *Journal's* refusal to print a 1500-word official rebuttal to an article that appeared in the paper concerning Singapore's efforts to start a second stock market.<sup>142</sup> Dow Jones & Company unsuccessfully challenged the circulation restriction in the Singapore courts.<sup>143</sup> The permitted circulation of the journal subsequently has been raised three times, most recently in May 1993, when Singapore's government announced that it would again allow 5000 copies a day to be sold in the city-state.<sup>144</sup>

Although the daily circulation of the *Asian Wall Street Journal* has been allowed to return to its pre-curtailment figure, the damage to Singapore's reputation as an international financial center has already been done. By severely restricting the circulation of a well-known foreign publication, Singapore's government has highlighted for the financial community the potential dangers of operating in a society as tightly controlled as Singa-

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140. The government's order was made pursuant to certain 1986 amendments to the Newspaper and Printing Presses Act that authorize the Minister of Communications and Information to limit, by decree, the circulation in Singapore of foreign publications that are "engaging in the domestic politics of Singapore." Frank et al., *supra* note 136, at 73. The history of the dispute between the Singaporean government and Dow Jones & Company over the *Asian Wall Street Journal* is described in *Singapore to Allow Higher Circulation of Asian Journal*, *ASIAN WALL ST. J. WKLY.*, May 10, 1993, at 16.

141. *Singapore to Allow Higher Circulation of Asian Journal*, *supra* note 140. The Singaporean government's restriction on *Asian Wall Street Journal* correspondents received considerable attention in July 1990 when the government prohibited correspondents from the journal and the *Far Eastern Economic Review* from attending the Asia-Pacific Economic Cooperation conference held in Singapore. The government maintained the prohibition despite diplomatic pressure from the United States, Japan, and Australia. Frank et al., *supra* note 136, at 76. See also *Home-Town Decision: Pressure on Singapore Over Reporting Ban*, *FAR. E. ECON. REV.*, Aug. 2, 1990, at 13.

142. The article, entitled *Singapore Exchange Puzzles Financiers*, appeared in the December 12, 1986, issue of the paper. Frank et al., *supra* note 136, at 74. See also *Wall Street Journal Plans to Halt Circulation of Asian Paper in Singapore*, *AP, BC CYCLE*, Oct. 15, 1990 available in LEXIS, Asiapc Library, AP File.

143. *Dow Jones Publishing Company (Asia) Inc. v. Attorney General*, 2 MLJ 385, 396 (1989). The Court of Appeal held that "engaging in the domestic politics of Singapore" for the purposes of the Newspaper and Printing Presses Act "is simply involving oneself in some matter, in this case the domestic politics of Singapore where such involvement is neither solicited nor welcomed by those who are concerned with or affected by such matters . . ." For a fuller description of the court's holding, see Frank et al., *supra* note 136, at 74.

144. *Singapore to Allow Higher Circulation of Asian Journal*, *supra* note 140. The permitted circulation figure previously was raised from 400 to 2500 in October 1991 and then to 3500 in July 1992.

pore. Based on the Singapore government's history, the financial community cannot feel assured that the government will always permit the kind of free flow of information that is necessary for financial markets to function properly.

Furthermore, the Singapore government's restrictions on the financial press are not only directed at foreign publications. In a recent incident, the government invoked Singapore's draconian Official Secrets Act against certain members of the local business press and others for allegedly "receiving and communicating" unpublished government economic figures.<sup>145</sup> In all, five people were indicted: two economists from Crosby Securities, the director of the economics department of the MAS, and two editors of Singapore's *Business Times*. The charges stem from the June 29, 1992, publication by the *Business Times* of figures reported to be "official flash estimates" of the country's 1992 second quarter growth rate a few days before the figures were officially released.<sup>146</sup> In response to the obvious leak of government information, Singapore's Internal Security Department launched an extensive investigation that led to the charges being brought against the five economists and journalists.<sup>147</sup>

The government of Singapore has a clear interest in preventing leaks of official economic statistics, because such information

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145. Shale, *supra* note 53, at 43. See also Ramesh Divyanathan, *Fifth Accused to be Tried Jointly*, BUS. TIMES (SING.), June 26, 1993, at 2; *Secrets Act Case: Lawyers Seek More Details of Charges*, STRAITS TIMES, Apr. 1, 1993, at 16.

146. *Id.*

147. *Id.* If found guilty, the defendants could be sentenced to up to two years' imprisonment. *Singapore: Psst—Wanna See a Statistic?*, ECONOMIST, June 26, 1993, at 36 [hereinafter *Wanna See a Statistic?*]. This article became the center of another controversy involving Singaporean press restrictions. In August 1993, the Singaporean government announced that the weekly circulation of *The Economist* would be capped at its then-current level of 7500 issues after the news magazine declined to print a letter from a government official responding to comments made in the article relating to the defamation case of J.B. Jeyaretnam. Mr. Jeyaretnam was the first opposition member of the Singaporean parliament who was stripped of his parliamentary seat after Lee Kuan Yew successfully sued him for defamation. In response to *The Economist's* failure to print the letter, the government also revoked the magazine's exemption from the requirements of the Newspaper and Printing Presses Act that foreign publications (i) obtain a circulation permit, (ii) appoint a process agent in Singapore, and (iii) post a bond in the amount of approximately US\$125,000 to cover potential liability. See Victor Mallet, *Singapore Restricts Economist Circulation*, FIN. TIMES, Aug. 3, 1993, at 5; G. Pierre Goad, *Singapore Imposes Circulation Curbs on The Economist*, WALL ST. J., Aug. 3, 1993, at A11. Although *The Economist* quickly agreed to print the letter, the government has maintained the ceiling on its circulation and has not reinstated the magazine's exemption from the Newspaper and Printing Presses Act requirements. G. Pierre Goad, *Economist to Run Letter, as Singapore Demanded, But Its Punishment Persists*, WALL ST. J., Aug. 4, 1993, at A4; N. Balakrishnan, *Row Over a Sentence*, FAR E. ECON. REV., Aug. 12, 1993, at 13. For *The Economist's* editorial position on the controversy, see *A Singapore Saga*, ECONOMIST, Aug. 7, 1993, at 34.

could be exploited in the financial markets for private gain.<sup>148</sup> The defendants in this case, however, have not been accused of using the information in any improper manner other than to publish the estimates in the *Business Times*, a general circulation newspaper. As soon as such information appears in the general business press, the opportunity to exploit the leak for private gain is lost. Based on these facts, the charges brought in this case have been criticized as an over-reaction, born largely out of the government's desire to maintain a passive journalistic culture in the city-state.<sup>149</sup>

The perception of Singapore's government as too eager to control information is very damaging to the city-state's reputation in the financial community. Unlike the excessive caution of the republic's regulators, which, to the extent that it assures stable and secure markets, is an asset as well as a liability, the government's heavy-handedness with respect to the exchange of information has no positive consequences. And as the complexity of financial services and financial products increases, the ability of different market participants, including bankers, traders, company managers, institutional investors, accountants, lawyers, and regulators, to quickly and conveniently exchange information becomes even more essential.<sup>150</sup> Singapore may find itself, therefore, becoming increasingly marginalized as a financial center if its environment is not made more conducive to the free flow of information.

### III. CONCLUSION: SINGAPORE'S FUTURE AS AN INTERNATIONAL FINANCIAL CENTER

The Singapore government's desire to maintain tight control over the securities market is not surprising. It is just such tight governmental control over all aspects of the economy that is often cited as one of the primary reasons for the city-state's re-

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148. See *Singapore Prosecutions* (letter to the editor from Abdul Aziz Mahmoud of the Singapore High Commission), *ECONOMIST*, July 10, 1993, at 6 (Mr. Mahmoud defends the Singaporean government's actions in this case). See also *Singapore* (letter to the editor from Abdul Aziz Mahmoud of the Singapore High Commission), *ECONOMIST*, July 31, 1993, at 8.

149. See Shale, *supra* note 53, at 43; *Wanna See a Statistic?*, *supra* note 147, at 39. Critics of the government's actions in this case also point out that the "official flash estimates" that were published were slightly lower than had earlier been predicted and note it is unlikely that the government would have reacted similarly to the early announcement of positive figures. *Id.* In general, the local Singaporean press is known for being very mild-mannered and pro-government. Cooke, *supra* note 2; WALDEN COUNTRY REPORTS—SINGAPORE, *supra* note 14.

150. Peet, *supra* note 135, at 5.

markable economic development.<sup>151</sup> Moreover, Singapore's growth as a regional financial center is largely due to the reputation of its financial markets for being stable and closely regulated.<sup>152</sup> Admittedly, therefore, the prescriptions for reform contained in this article call for Singapore's government to modify policies that have contributed to the republic's past success.

This past success, however, does not guarantee that following the same policies will evolve the city-state into a major international financial center. The bulk of Singapore's financial sector growth came at a time during which Hong Kong was the only other viable financial center in Southeast Asia. Financial markets in the other countries of the region were very underdeveloped and either completely closed to foreigners or so volatile and poorly managed as to attract little or no foreign interest. Viewed in comparison with those markets, Singapore's tightly regulated but relatively accessible financial environment was seen as a blessing. Furthermore, among Southeast Asian countries, the republic was rivalled only by Hong Kong in terms of political stability, infrastructure, and other amenities, such as a well-educated and largely English-speaking work force, that together attract the operations of international financial institutions.<sup>153</sup>

Now, however, the competitive environment in Southeast Asia is changing.<sup>154</sup> The stock markets of Malaysia and Thailand both have surpassed the Stock Exchange of Singapore in terms of market capitalization, and the governments of both countries have ambitious plans to challenge Singapore's long standing position as the paramount financial and business services hub of the ASEAN<sup>155</sup> countries.<sup>156</sup> The Malaysian government has been particularly aggressive with respect to developing its financial markets and financial service capabilities. The KLSE has emerged from the shadow of the Stock Exchange of Singapore

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151. See, e.g., Sisodia, *supra* note 136, at 45. Some supporters of the Singaporean government go so far as to suggest that the government's tight control over and restrictions upon individual freedoms also contributed to the republic's economic success. See Frank et al., *supra* note 136, at 15.

152. See, e.g., Peter Osborne, *Investors May Not Like It But Finance Strictness Pays—Singapore Survey*, AUSTL. FIN. REV., Apr. 23, 1992, at 31; Andrew Gowers, *Island of Integrity—The Financial Centre has an Enviably Reputation*, FIN. TIMES, Mar. 29, 1993, at 4 (commenting that Singapore's niche as a financial center is based partly on the city-state's "reputation for boring integrity").

153. See Price Waterhouse, *supra* note 1, at 4; Tommy Koh & Lee Tsao Yuan, *Hong Kong and Singapore are Hard Acts to Follow*, INT'L. HERALD TRIB., July 29, 1992.

154. See, e.g., Levingston, *supra* note 47; Shale, *supra* note 53, at 42.

155. ASEAN, which stands for the Association of Southeast Asian Nations, is composed of Indonesia, Malaysia, Singapore, Thailand, the Philippines, and Brunei.

156. See Dixit, *supra* note 38.

through the delinking of the two exchanges,<sup>157</sup> and its market capitalization has since grown to be roughly twice as large as that of the Singapore exchange.<sup>158</sup> In addition, the Malaysian government is attempting to transform Labuan Island, off the coast of Sabah, from a thinly populated jungle into an international tax haven and offshore banking center.<sup>159</sup>

Other countries in the region are also openly competing with Singapore for financial business. The Australian government, for example, is actively promoting Sydney and Melbourne as international financial centers. As part of this effort, the government is undertaking to reduce its corporate tax rates on certain financial services to a par with those applicable in Singapore.<sup>160</sup> Likewise, since 1988 the Indonesian government has been engaged in a wide-ranging program to deregulate and internationalize its financial markets.<sup>161</sup>

None of these moves by other countries in the region poses an immediate threat to Singapore's position as a regional financial center. Because of its head start,<sup>162</sup> Singapore maintains a significant lead over Southeast Asia's aspiring financial centers in terms of the maturity of its financial markets and legal system and also has in place the critical mass of international financial

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157. On the rivalry between the KLSE and the Stock Exchange of Singapore, see John Goff, *Exchanging Blows*, GLOBAL CUSTODIAN, Mar. 1993, at 74.

158. *World Equities—Malaysia*, *supra* note 113, at 86.

159. On the development of Labuan Island, see Duthie, *supra* note 50; *Tax Haven Rises Out of Jungle*, *supra* note 50. See also Peter McGill, *Thailand: Offshore Attractions*, EUROMONEY, Feb. 1993, at 21 (commenting on the current lack of physical infrastructure on Labuan Island and the related difficulties that the Malaysian government is having in attracting foreign institutions to station staff on the island).

160. Kavanagh, *supra* note 48. Australia shares the advantage of Singapore and Hong Kong of having legal and accounting systems that are substantially similar to those of two of the world's most important financial centers, New York and London. *Id.* In terms of being viewed as "Asian" financial centers, however, Sydney and Melbourne suffer from the fact that prior to the past few years the Australian government and business community have generally associated more closely with Western Europe and the United States than with Asia. See Louis Kraar, *Up from Down Under*, FORTUNE (special issue, *Asia in the 1990s*), Fall 1989, at 54; *Advance Australia Fair: Mix One Part Asia, One Part Europe*, FAR E. ECON. REV., Mar. 11, 1993, at 5.

161. On Indonesia's deregulation program generally, see note 49. When the Indonesian government embarked on its deregulation program, there were only 24 companies listed on the Jakarta Stock Exchange and daily turnover rarely exceeded 20,000 shares. Within three years, 146 companies were listed on the exchange and daily trading volume regularly exceeded three million shares.

162. The Singaporean government embarked on its program to develop the city-state as a financial center in 1968 when it established the Asian Dollar market. S.N. Vasuki, *A Silver Success*, BUS. TIMES (SING.), May 25, 1993, at 1. The Asian Dollar market, which is analogous to the Eurodollar market, is a primarily inter-bank market for the loaning of non-Singaporean currencies. Although the Asian Dollar market includes participants in other financial centers, it is still primarily associated with Singapore. Price Waterhouse, *supra* note 1, at 63.

institutions that aspirants like Bangkok, Jakarta, and Labuan Island lack.<sup>163</sup>

One particular advantage that Singapore holds over all of its regional rivals is the existence in the city-state of two specialized financial markets, a foreign exchange market and a financial and energy futures market, that rank among the world's leaders.<sup>164</sup> The foreign exchange market is the fourth largest in the world in terms of total turnover,<sup>165</sup> and the financial and energy futures market, which is known as SIMEX,<sup>166</sup> is one of the world's fastest-growing futures markets.<sup>167</sup> Such well-developed specialized financial markets add considerably to the depth of Singapore's appeal to the international financial community.<sup>168</sup> Together with the offshore Asian Dollar banking market,<sup>169</sup> the foreign ex-

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163. See Moon Ihlwan, *Singapore Financial Sector Set to Beat Challengers*, REUTER ASIA-PAC. BUS. REP., Apr. 19, 1993 available in LEXIS, Asiapc Library, APBRPT File; Osborne, *supra* note 152.

164. See Kim Hunter, *Growing Pains*, FUTURES AND OPTIONS WORLD, Feb. 1993, at 43 (commenting on the respective efforts of Malaysia, Thailand, and Indonesia to establish futures and other commodities exchanges).

165. Singapore recently surpassed Zurich and now trails only London, New York, and Tokyo as a center for foreign exchange trading. Gowers, *supra* note 152. In terms of foreign exchange turnover in non-local currency transactions, Singapore is the world's second largest market. Price Waterhouse, *supra* note 1, at 63. The bulk of the foreign trading in Singapore is between U.S. dollars and German marks and between U.S. dollars and Japanese yen. See Chan Sue Meng, *A Sterling Performance by Forex Industry*, STRAITS TIMES, Dec. 25, 1992, at BACK.

166. SIMEX stands for the Singapore International Monetary Exchange. The exchange was launched in August 1984.

167. Gowers, *supra* note 152. The remarkable growth of SIMEX is due partly to the implementation of a mutual offset system with the Chicago Mercantile Exchange, which allows trading positions established on either of the two exchanges to be offset or transferred onto the other. *Equity Financing: Singapore*, FIN. FOREIGN OPERATIONS, July 1, 1992, available in Westlaw, BUS-INTL database. See also *SIMEX Gaining Clout as Major Exchange*, NIKKEI WKLY., Aug. 29, 1992, at 20. Among the contracts traded on SIMEX are Eurodollar and Euroyen interest rate contracts, Nikkei stock index averages contracts, Nikkei futures contracts, and gas and oil futures contracts. Price Waterhouse, *supra* note 1, at 61. The most recent contracts to be added to SIMEX are a Hong Kong futures contract that is based on the Morgan Stanley Capital Index for Hong Kong and a Japanese government bond futures contract. See Gren Manuel, *SIMEX Mission Out to Please*, S. CHINA MORNING POST, May 22, 1993, at 12; see also Emiko Terazano & Tracy Corrigan, *Singapore Presses on with Japanese Bond Futures*, FIN. TIMES, Sept. 17, 1993, at 21.

168. Foreign exchange trading, for example, constitutes one of the most profitable businesses for foreign banks that are established in Singapore, and many banks recently have been increasing their foreign exchange trading staffs in the city-state. Shale, *supra* note 53, at 45.

169. On the Asian Dollar market generally, see *supra* note 159. The assets of the Asian Dollar market increased by an average of 35% a year between 1987 and 1990, before peaking that year at US\$390 billion. Ihlwan, *supra* note 163; Osborne, *supra* note 152. Although since then the growth of the market has been relatively flat, the market's profitability has increased recently as decreased competition among banks has led to wider interest margins. Gowers, *supra* note 152.

change market and SIMEX constitute Singapore's most successful and international financial markets.<sup>170</sup>

Moreover, many of Singapore's regional rivals are still struggling to determine the proper degree of regulatory control to exercise over their financial markets. Predictably, the rapid liberalization and growth of the Malaysian, Indonesian, and Thai securities markets since the late 1980s has seen those markets become overly rumor-driven and prone to speculative excess.<sup>171</sup> In response, the authorities in those countries now are attempting to improve the integrity of their markets by striking a better balance between stability and growth.

Financial regulators in Thailand and Indonesia, for example, have begun campaigns to ameliorate the reputations of their financial markets as excessively volatile and poorly managed. Both governments are tightening disclosure rules and aggressively prosecuting local investors and brokers who are accused of unlawfully manipulating the markets.<sup>172</sup> The Malaysian government, likewise, established a Securities Commission in March

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170. *But see* Gowers, *supra* note 152 (commenting that although Singapore's active futures and foreign exchange markets add to the city-state's entrepot reputation, they do not by themselves constitute a capital market with real depth and diversity).

171. *See* Tony Shale, *Asian Regulators Display a Heavy Hand*, EUROMONEY, July, 1993, at 80; Philip Shenon, *A Watchdog Gets to Work in Bangkok*, N.Y. TIMES, Aug. 8, 1993, at F15; Robert Steiner, *Asian Markets Learn Good Regulation Requires More than Just a List of Rules*, ASIAN WALL ST. J. WKLY., May 31, 1993, at A25. Despite its sophistication relative to other emerging stock markets in Southeast Asia, even the KLSE is prone to a high degree of rumor-driven trading. *See, e.g.*, Doug Tsuruoka, *Kuala Lumpur: Eyes on Idris*, FAR E. ECON. REV., Apr. 22, 1993, at 82 (commenting on the remarkable rise in price and trading volume of the shares of an otherwise obscure financial group named Idris Hydraulic. This rise was based on a variety of rumors, including, among others, that the company was about to take over the privatized postal system, that it was about to be awarded huge government contracts to build a bridge in Penang and an international airport near Kuala Lumpur, and that it was going to acquire the local unit of either Hong Kong & Shanghai Banking Corp. or Standard Chartered Bank). *See also* John Goff, *Chinese Checkers*, GLOBAL CUSTODIAN, Mar. 1993, at 76 (commenting on the Fall 1992 frenzied trading on the KLSE of the shares of Multi Purpose Holdings, Ltd. on unfounded rumors that it had been awarded some kind of gaming license in South China's Guangdong Province).

172. For the case in Thailand, *see* Evans, *supra* note 51. During its just over one year of existence, Thailand's Securities and Exchange Commission has aggressively prosecuted stock market manipulators. In April 1993, for example, 30 Thai investors were indicted on charges that they conspired to manipulate the share price of four companies, First City Investment, Rattana Real Estate, Siam City Bank, and property developer Krisda Mahanakorn. The authorities also leaked to the press a list of names of 123 other investors suspected of manipulation. Shale, *supra* note 171, at 80; Shenon, *supra* note 171. For the Indonesian case, *see* Shale, *supra* note 171, at 99.

1993 to provide more effective oversight of the country's capital and financial futures markets.<sup>173</sup>

The dilemma that the regulators of these countries face, however, is that much of the attraction that their markets hold for foreign institutional investors stems from their volatile, high-risk, high-return character.<sup>174</sup> If stricter regulation reduces the opportunities for the kinds of speculative returns that foreign investors look for in emerging markets, the flow of foreign portfolio investment into those countries could slow significantly. Regulators in Southeast Asia's aspiring financial centers, therefore, face the difficult task of trying to increase the integrity of their financial markets without imposing such a high degree of regulation that foreign investors will lose interest.

Despite Singapore's advantages over its rivals, the city-state's prospects for growing as an international financial center are uncertain. For the most part, Malaysia, Indonesia, and Thailand only began to liberalize their financial systems in the late 1980s. Although they are still experiencing the types of growing pains that naturally accompany the transition from a closed to an open market system, the growth and rise in sophistication of their markets already has been remarkable.

The continued development of these and other Southeast Asian financial markets threatens to spoil Singapore's aspirations to assume a major international financial role. A few years ago, it appeared that Singapore might become the primary financial center for all of East Asia outside of Japan. Such speculation was born in the aftermath of the 1989 Tiananmen Square massacre, when widespread fear and uncertainty about Hong Kong's future led many observers to predict that financial businesses would soon desert Hong Kong for the stability of Singapore.<sup>175</sup> Thus far, these predictions have not been proven correct; rather, the financial role of Hong Kong has increased over the past several years as the People's Republic of China's ("PRC") economy has boomed.<sup>176</sup>

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173. See Shale, *supra* note 171, at 80; *Malaysia: Securities Watchdog Proposed*, INT'L FIN. L. REV., Oct. 1992, at 42.

174. Shale, *supra* note 171, at 80. See also K. Michael Fraser, *Risky, Rewarding, Hot*, GLOBAL FIN., Apr. 1992, at 46 (discussing the attractions that emerging securities markets hold for foreign investors); Sara Webb, *Seeking High Returns Through High Adventure*, FIN. TIMES, Oct. 21, 1993, at 17.

175. See sources cited *supra* note 41. On the predictions that Singapore would eclipse Hong Kong in the wake of the Tiananmen Square massacre, see also, *Singapore's Star is on the Rise*, FORTUNE (special issue, *Asia in the 1990s*), Fall 1989, at 32.

176. See sources cited *supra* note 42. Even the rigid stabilization program imposed by the Chinese government in mid-1993 to cool down China's overheating economy has not significantly dampened financial activity in Hong Kong. See Simon Davies, *China Worries Fail to Halt Hong Kong's Rise*, FIN. TIMES, Aug. 20, 1993, at

With the bulk of PRC-related financial business apparently out of its grasp,<sup>177</sup> Singapore's future as a financial center appears to be more firmly than ever tied to its immediate Southeast Asian region.<sup>178</sup> This dependence on its neighbors is what makes the ongoing reforms of the financial systems of Malaysia, Indonesia, and Thailand so potentially damaging to Singapore. Logically, the city-state cannot hope to be a world financial leader if it is overshadowed in its own back yard. And with the rapid emergence of competitive financial markets in larger neighboring states, Singapore's financial significance in Southeast Asia does appear to be on the wane.

To reverse this trend, Singapore's government should consider loosening its regulatory grip over the financial sector, generally, and the securities market in particular.<sup>179</sup> Tight regulatory control was an appropriate policy to pursue at a time when the city-state could distinguish itself in Southeast Asia as an island of well-managed integrity in a sea of underdeveloped financial systems and scandal-plagued financial markets.

Now, however, the shortcomings in the financial systems of Singapore's neighbors are being rapidly repaired. In order to stand out in this increasingly crowded financial marketplace, the city-state must create an environment that is more responsive to the requirements of international finance and the international financial community. To do so, Singapore's regulators need to

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32. On the stabilization program, see Tony Walker, *Long Slog to a Smooth Landing*, FIN. TIMES, Aug. 5, 1993, at 9; *China's Financial Fix*, ECONOMIST, July 10, 1993, at 69.

177. Even should Hong Kong fall out of favor with the PRC government following 1997, it is unlikely that Singapore would inherit Hong Kong's role. The PRC government, for instance, has plans to develop Shanghai as a financial center. See Tony Walker, *Survey of Shanghai*, FIN. TIMES, June 2, 1993, at 29. But for the contrary view that Singapore's importance as a supplier of financial services to China may increase in the future, see Chuang Peck Ming, *Singapore as China's Financial Services Supplier*, BUS. TIMES (SING.), July 30, 1993, at 4.

178. The Japanese government has suggested that Singapore's connection to its region be formalized through a regional cooperation scheme among Asia-Pacific financial centers. Under such a scheme, which has been outlined by the Japanese Ministry of Finance, Tokyo would be the primary financial center for all of Asia, and Hong Kong, Singapore, and Sydney would each concentrate on the financial business of a certain limited region; Hong Kong would concentrate on PRC, Singapore on the ASEAN countries, and Sydney on the Oceania region. See Anthony Rowley, *Capitals of Capital*, FAR E. ECON. REV., June 25, 1992, at 57. Although it seems unlikely that such a formal division of responsibilities would ever be acceptable to all of the parties concerned, a de-facto division along those lines has already occurred.

179. Increasing the depth and breadth of the securities market is central to Singapore's ambitions as a financial center, because the size of a center's markets in tradeable securities is one of the primary measuring rods of its importance in world terms. See John Peet, *Rise and Fall*, in FINANCIAL CENTRES SURVEY, ECONOMIST, June 27, 1992, at 1, 4.

relinquish some degree of control over the financial markets. By taking a more light-handed approach, Singapore could boast of a regulatory environment that is as accommodating to the international financial community as the city-state's efficient airport,<sup>180</sup> world-class telecommunications facilities,<sup>181</sup> and sparkling office towers.

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180. Through advanced computerization, passport checks in Singapore's Changi Airport take approximately 15 seconds. Sisodia, *supra* note 136, at 42.

181. The overall quality of Singapore's telecommunications infrastructure has been rated the best in the world. *Id.*