



# **ASIAN ROUNDTABLE ON CORPORATE GOVERNANCE**

**OFFICIAL PRESENTATION of the WHITE PAPER on  
CORPORATE GOVERNANCE IN ASIA**

## ***VIETNAM - QUESTIONNAIRE***

Submitted by Ms Kim-Chi Trinh, Vietnam

**Tokyo, Japan  
20 November 2003**



## Questions for Asian Roundtable Workshop – Vietnam

1. Please describe how the following factors affect the decision to pursue criminal, civil or administrative sanctions:

a. Efficacy of sanction/enforcement powers and procedures under applicable law

*Under the current legal system, criminal and civil sanctions related to the securities market have not been specified in the country's criminal and civil laws. Thus the pursuit of criminal and civil sanctions, which normally requires an extensive amount of time and efforts, may be too difficult and very likely not feasible. Fortunately, current securities regulations have specific provisions on administrative sanctions which make enforcement quite feasible.*

b. Value of successful enforcement action in deterring other potential wrongdoers

*The securities market of Vietnam is still in the infant stage of development. The legal framework is still being developed to facilitate the efficient functioning of the market. Thus there are many potential avenues for fraudulent activities. The SSC operates under the belief that a deterrence is preferable to a remedy, and successful enforcements during the formative stage of the market will have a strong impact in preventing potential fraudulent activities in the future. Thus the SSC considers the most important reason to pursue sanctions is to deter potential wrongdoers.*

c. Your own resource constraints in investigating and pursuing an enforcement action

*The SSC, as a newly established government body, faces many resource constraints; chief among which are the lack of well-trained, experienced staff and the limitation of judicial power. Although these resource constraints can have a negative effect on the success of an investigation, the SSC's decision to undertake an investigation or a sanction does not rely completely on internal resources alone. In cases where the SSC does not possess sufficient resources to conduct an investigation, the SSC has the option of referring the cases to other government bodies or obtaining cooperation from other governmental bodies in our own investigations.*

d. Capacity constraints (expertise, even-handedness, timelines) of courts

*There are two major court constraints. First, the securities market in Vietnam is still new, and judges are still in the process of acquiring an expertise on the securities business. Second, the country's legal system is still being developed and it is very difficult for judges to make satisfactory rulings. Until the time when the country's criminal and civil laws are better developed (through amendments and supplements), the pursuit of criminal and civil sanctions via courts would be considered a high cost, time-consuming, and tedious effort.*

2. Please fill in the following tables for the latest year in which data are available:

**Breakdown of investigations and enforcement actions by numbers (indicate whether data are approximate or actual):**

| Type of Action | Number of investigations underway | Number of investigation begun | Number of enforcement actions underway | Number of enforcement actions begun | Number of enforcement actions concluded with sanction | Number of enforcement actions concluded without |
|----------------|-----------------------------------|-------------------------------|--|-------------------------------------|---|---|
| Criminal       | 0                                 | 1                             | 0                                      | 0                                   | 0   | 0   |
| Civil          | 0                                 | 2                             | 0                                      | 0                                   | 0   | 0   |
| Administrative | 0                                 | 7                             | 1                                      | 0                                   | 1   | 0   |

**Breakdown of source of information (indicate whether data are approximate or actual):**

| Type of Action | % of investigations triggered by news reports | % of investigations triggered by review of regulatory filing | % of investigations triggered by tip from another governmental agency | % of investigations triggered by tip from insider | % of investigations triggered by tip from investor | % of investigations triggered by tip from supplier or customer | % of investigations triggered by tip from competitor | % of investigations triggered by tip from another source |
|----------------|---|--|---|---|--|--|--|--|
| Criminal       | 0   | 0  | 100% (actual)   | 0   | 0  | 0  | 0  | 0  |
| Civil          | 0   | 0  | 0   | 50% (actual)                                      | 50% (actual)                                       | 0  | 0  | 0  |
| Administrative | 0   | 60% (approximate)  | 0   | 0   | 30% (approximate)                                  | 0  | 0  | 10% (approximate)  |

**For each 100 public companies, what is the approximate number of personnel employed by the securities regulator:**

|                     |                             |
|---------------------|-----------------------------|
| Managers            | 10                          |
| Investigators       | 5                           |
| Policy experts      | 7                           |
| Technical reviewers | 10                          |
| Prosecutors         | 10 (from other institution) |
| Support staff       | 20                          |