SOVEREIGN WEALTH FUNDS,
TRANSNATIONAL LAW, AND THE
NEW PARADIGMS OF INTERNATIONAL
FINANCIAL RELATIONS

By Salar Ghahramani

Abstract—International financial relations have largely been
defined by cross-border trade, foreign direct investments, and
global banking relations. This paper demonstrates that another
activity, sovereign investments by special vehicles known as
sovereign wealth funds, is rapidly redefining the traditional
paradigms, providing both opportunities for further integration
of the financial markets as well as posing particular challenges
for policy makers.

Introduction

Sovereign wealth funds (“SWFs”) are government-owned organizations that are
increasingly involved in the global financial markets through their diverse and numerous
investment activities. They invest in both traditional asset classes such as currencies,
government and corporate bonds, stocks, real estate, natural resources, commodities,
and precious metals, as well as non-traditional assets such as options, collateralized
debt instruments, futures, financially engineered structured products, and other exotic
derivatives. Some have even begun to invest in airports and hospitals. (Malaysia’s
sovereign wealth fund Khazanah Nasional, for instance, owns 54 percent of Malaysia
Airports and has a controlling stake at Turkey’s largest hospital chain.)

Unless SWFs place internal restrictions on asset allocation, are confined by the laws or
directives of the countries where they are domiciled, or are restricted in their activities
by host governments, the asset classes in which they invest are theoretically unlimited.
Additionally, without internal policy or legal limitations, SWF investment strategies
are also unlimited. They can employ the services of hedge funds and private equity

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Research.
firms, engage in venture capital activities and leveraged buyouts, utilize arbitrage tactics (where traders take advantage of perceived pricing imbalances between markets, asset classes, or financial instruments), and even “short” a market, an asset, or a company.\(^4\)

A few governments have imposed explicit and transparent controls on their SWFs. The best example of a fund having been confined in its investment activities by the country’s general laws is Norway’s Government Pension Fund Global (GPFG), overseen by the country’s Ministry of Finance, which requires the SWF to invest 60 percent of its assets in equities, 35–40 percent in fixed-income securities, and as much as five percent in real estate.\(^5\) Furthermore, the GPFG is only allowed to invest outside of the country and is required to abide by specific geographic allocation requirements. It must have 50% of its equity investments in Europe, 35% in the Americas, Africa and the Middle East, and 15% in Asia and Oceania. It must also have 60% of its fixed-income investments in Europe, 35% in the Americas, and 5% in Asia and Oceania. And its real estate investments must be spread over different sectors, properties and securities in Europe but not in Norway.\(^6\) The Fund is also restricted by a set of ethical guidelines that require it to respect the fundamental rights of those affected by companies in which GPFG invests.\(^7\)

With this background, the remainder of this article is devoted to providing more detail on sovereign wealth funds, examining the objections to their activities, analyzing the current policy and regulatory paradigms, and proposing a framework within which the discussion of SWF activities and their impact on the global markets should be considered.

**SWF History and Overview**

Sovereign wealth funds have existed for decades. The first modern SWF, the Kuwait Investment Authority, was created in 1953.\(^8\) But only recently have SWFs attained unprecedented attention, partly because of their role during the global financial crisis of 2007–8 and partly because of their relatively recent proliferation. (See Figure 1 for historical trends in launch years.)

**Figure 1.** Launch Year of top 50 SWFs, % Share by Number

![Pie chart showing launch years]

Pre-1990: 26%
Post-1990: 59%
1990-1999: 15%

Source: Sovereign Wealth Fund Institute
In 2011 alone, SWF investments increased by 42% compared to the previous year, accounting for 237 direct investments.

In addition to this proliferation in the total number of sovereign wealth funds, the overall activities and SWF assets under management are projected to multiply during the next decade. In 2011 alone, SWF investments increased by 42% compared to the previous year, accounting for 237 direct investments. Furthermore, the number of SWFs has more than doubled during the past decade.

There is no universally accepted definition of what a sovereign wealth fund is, but three characteristics are common to the funds: (1) state ownership, (2) absence (or limited degree) of explicit liabilities in terms of regular fixed payments to pensioners or other domestic constituents, and (3) separate management from the home country’s foreign exchange reserves.

The International Working Group of Sovereign Wealth Funds, which counts many SWFs as members, defines sovereign wealth funds as “special-purpose investment funds or arrangements that are owned by the general government,” are created for “macroeconomic purposes,” and include “fiscal stabilization funds, savings funds, reserve investment corporations, development funds, and pension reserve funds without explicit pension liabilities.”

The International Monetary Fund has highlighted several distinct SWF types:

- **Stabilization funds:** created by natural resource-rich states in order to shield their economies and budgets from volatility in commodity prices;
- **Savings funds:** created to share wealth across generations, with long-term objectives;
- **Reserve investment corporations:** created to reduce the negative cost-of-carry in reserve holdings or to pursue higher return investments than reserve holdings;
- **Development funds:** created for resource allocation and funding towards socioeconomic and infrastructure development projects; and
- **Pension reserve funds:** created as contingency funds addressing potential pension liabilities in the future.

Historically, SWFs have been funded by commodities sales, principally oil exports. However, the trend during the past ten years has been a shift to funding by additional sources of state revenue. For instance, whereas in 2002 77% of SWF funding came from commodities exports, in 2011 only 56% did. The reason for the trend can be attributed to the sheer proliferation of SWFs in the first decade of the 21st Century, where numerous non-commodity producing countries (including France, for example) decided to create SWFs and fund them with varying state assets such as excess currency reserves and tax proceeds. As Figure 2 and the succeeding graphs indicate, SWFs are a rather diverse group in terms of countries of origin, size, and asset allocation.
**Figure 2. Known Sovereign Wealth Funds as of February 2013**

<table>
<thead>
<tr>
<th>Sovereign Wealth Fund</th>
<th>Sovereign Wealth Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Algeria – Revenue Regulation Fund</td>
<td>Mexico – Oil Fund</td>
</tr>
<tr>
<td>Angola – SWF Presumed</td>
<td>Mongolia – FSF</td>
</tr>
<tr>
<td>Australian Future Fund</td>
<td>New Zealand Superannuation Fund</td>
</tr>
<tr>
<td>Azerbaijan – State Oil Fund</td>
<td>Nigeria – Nigerian Sov. Investment Authority</td>
</tr>
<tr>
<td>Bahrain – Mumtalakat Holding Company</td>
<td>Norway – Government Pension Fund – Global</td>
</tr>
<tr>
<td>Botswana – Pula Fund</td>
<td>Oman Investment Fund</td>
</tr>
<tr>
<td>Brazil – Sovereign Fund of Brazil</td>
<td>Oman – State General Reserve Fund</td>
</tr>
<tr>
<td>Brunei Investment Agency</td>
<td>Qatar Investment Authority</td>
</tr>
<tr>
<td>Canada – Alberta’s Heritage Fund</td>
<td>Papua New Guinea – SWF</td>
</tr>
<tr>
<td>Chile – PR &amp; ES Fund</td>
<td>Russia – National Welfare Fund</td>
</tr>
<tr>
<td>China-Africa Development Fund</td>
<td>Saudi Arabia – Public Investment Fund</td>
</tr>
<tr>
<td>China Investment Corporation</td>
<td>Saudi Arabia – SAMA Foreign Holdings</td>
</tr>
<tr>
<td>China – National Social Security Fund</td>
<td>Singapore – GIC</td>
</tr>
<tr>
<td>China – SAFE Investment Company</td>
<td>Singapore – Temasek Holdings</td>
</tr>
<tr>
<td>Equatorial Guinea – FFG</td>
<td>Timor-Leste Petroleum Fund</td>
</tr>
<tr>
<td>France – Strategic Investment Fund</td>
<td>Trinidad and Tobago – HSF</td>
</tr>
<tr>
<td>Gabon – SWF</td>
<td>UAE – Abu Dhabi Investment Authority</td>
</tr>
<tr>
<td>Ghana – Petroleum Funds</td>
<td>UAE – Abu Dhabi Investment Council</td>
</tr>
<tr>
<td>Hong Kong – Monetary Authority IP</td>
<td>UAE – Emirates Investment Authority</td>
</tr>
<tr>
<td>Indonesia – Government Investment Unit</td>
<td>UAE – IPIC</td>
</tr>
<tr>
<td>Iran – Oil Stabilization Fund</td>
<td>UAE – Investment Corporation of Dubai</td>
</tr>
<tr>
<td>Ireland – National Pensions Reserve Fund</td>
<td>UAE – Mubadala Development Company</td>
</tr>
<tr>
<td>Italian Strategic Fund</td>
<td>UAE – RAK Investment Authority</td>
</tr>
<tr>
<td>Kazakhstan National Fund</td>
<td>USA – Alabama Trust Fund</td>
</tr>
<tr>
<td>Kiribati – Revenue Equalization Reserve Fund</td>
<td>USA – Alaska Permanent Fund</td>
</tr>
<tr>
<td>Korea Investment Corporation</td>
<td>USA – New Mexico State IC</td>
</tr>
<tr>
<td>Kuwait Investment Authority</td>
<td>USA – North Dakota LF</td>
</tr>
<tr>
<td>Libyan Investment Authority</td>
<td>USA – Texas Permanent School Fund</td>
</tr>
<tr>
<td>Malaysia – Khazanah Nasional</td>
<td>USA – Permanent Wyoming Mineral Tr. Fund</td>
</tr>
<tr>
<td>Mauritania – NFHR</td>
<td>Venezuela - FIEM</td>
</tr>
</tbody>
</table>

Source: Sovereign Wealth Fund Institute
If the funds noted above are divided up regionally, Asia is home to about 40% of all SWFs, and the Middle East to 35% of them. Europe holds approximately 17%, while Africa, the Americas, and the remaining parts of the world can claim a combined SWF ownership of about 8%.

Figure 3. Top 10 SWFs by Assets Under Management as of April 2013

<table>
<thead>
<tr>
<th>No.</th>
<th>Assets US$bn</th>
<th>Fund name</th>
<th>Country</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$715</td>
<td>Government Pension Fund – Global</td>
<td>Norway</td>
</tr>
<tr>
<td>2</td>
<td>$627</td>
<td>Abu Dhabi Investment Authority</td>
<td>UAE – Abu Dhabi</td>
</tr>
<tr>
<td>3</td>
<td>$567</td>
<td>SAFE Investment Company</td>
<td>China</td>
</tr>
<tr>
<td>4</td>
<td>$532</td>
<td>SAMA Foreign Holdings</td>
<td>Saudi Arabia</td>
</tr>
<tr>
<td>5</td>
<td>$482</td>
<td>China Investment Corporation</td>
<td>China</td>
</tr>
<tr>
<td>6</td>
<td>$342</td>
<td>Kuwait Investment Authority</td>
<td>Kuwait</td>
</tr>
<tr>
<td>7</td>
<td>$298</td>
<td>HK Monetary Authority Investment Portfolio</td>
<td>Hong Kong</td>
</tr>
<tr>
<td>8</td>
<td>$247</td>
<td>Government of Singapore Investment Corporation</td>
<td>Singapore</td>
</tr>
<tr>
<td>9</td>
<td>$175</td>
<td>National Welfare Fund</td>
<td>Russia</td>
</tr>
<tr>
<td>10</td>
<td>$160</td>
<td>National Social Security Fund</td>
<td>China</td>
</tr>
</tbody>
</table>

Source: Sovereign Wealth Fund Institute

Figure 4. Percentage of All SWFs Investing in Each Asset Class

Source: Preqin: 2011 Sovereign Wealth Fund Review.
SWFs During the Equity Boom (and Bust)

As noted above, the creation of SWFs proliferated post-2000, as did their activities. During much of the decade, especially between 2003–2007, the equity markets around the world were in a bull market, signaling (falsely, as it turned out) a healthy global economy. As this section highlights, SWFs were major transnational actors during the boom period—as well as the crash that followed.

An interesting case worth discussing here, which underlines how integrated SWFs have become in the global financial markets, involves a merger deal and several private, governmental, and quasi-governmental actors: In 2007, Singapore’s SWF, Temasek Holdings, along with the China Development Bank, a quasi-governmental lender, announced that they would invest up to $18.5 billion in Barclays, a British financial institution, so that Barclays could buy ABN Amro, a Dutch bank, which also happened to have a group of investors that included the Belgian-Dutch bank Fortis and the Spanish company Grupo Santander, led by the Royal Bank of Scotland, bidding for it. Barclays did not win the bid and ultimately abandoned its offer, but the case highlighted just how involved state actors had become in global investment schemes and how complex those schemes have become.

A few months after the ABN Amro case, the equity markets showed signs of significant volatility, and American and European banks, whose stock values were plunging rapidly, were in a dire need for new investors. During this period, the Abu Dhabi Investment Authority (ADIA), a sovereign wealth fund, invested $7.5 billion in Citigroup, which seriously needed cash because of its exposure to sub-prime mortgages. Other SWFs owned by governments of China, Kuwait, Qatar, Saudi Arabia, Singapore, and South Korea invested tens of billions more into financial stocks of companies such as Bank of America, Barclays, Blackstone, Carlyle, Citigroup, Deutsche Bank, Goldman Sachs, HSBC, JP Morgan, Merrill Lynch, Morgan Stanley, UBS, amid other financial institutions. This heavy involvement of foreign SWFs in the United States’ financial industry, while beneficial to the marketplace during the crisis, caused serious concern among some observers, calling for a rigorous regulation of the funds and their activities.

Calls for Regulation

Because SWFs are state-owned, their investments are perceived as a geopolitical or national security threat by a number of scholars and policy makers, and there have even been calls for taking away SWF shareholder rights in order to curb their potential impact.
The truth is that the sovereign wealth injections of much-needed capital into the financial industry alleviated many of the banks’ liquidity problems during the height of the financial crisis.

Influence on corporate decision-making processes that could have political implications. The general fear over SWF activities can be summarized in the following two points: (1) SWF motives can be strategic rather than purely financial, as SWFs may seek to gather ownership rights in sensitive sectors such as telecommunications, media, energy, seaport, financial services, and dual use industries and later use these assets against the host country in case of war; and (2) SWFs may acquire proprietary information only available to corporate insiders and transfer this corporate intelligence to a rival company in their own country.

Based on such misgivings, Senator Richard Shelby of Alabama once expressed his reservations about SWF intentions, noting that “I’m afraid we’re going to be owned and controlled by countries and sovereign wealth funds. . . . Who’s going to influence this country? Will it be the American people, or other people who own us?” Similarly, a SWF researcher characterized the entities’ proliferation as having created “an unstable political, legal, and regulatory environment for this form of foreign direct investment (FDI).” Despite these concerns, the truth is that the sovereign wealth injections of much-needed capital into the financial industry alleviated many of the banks’ liquidity problems during the height of the financial crisis, helping them during the seemingly never-ending downward spiral. Pursuant to the SWF cash infusions, Scott G. Alvarez, General Counsel to the Federal Reserve Board, told a Congressional panel that sovereign wealth funds and their direct investments into banking firms were “a beneficial source of capital for U.S. financial institutions.”

As to whether SWF equity investments are politically motivated, they appear not to be. Research conducted by economists Rolando Avendaño of the OECD and Javier Santiso of the ESADE Business School has observed that because SWF and mutual fund investment strategies are similar, one can deduce that SWFs are non-political investors. The researchers highlighted that both SWFs and mutual funds are indifferent as to the type of political system that exists in the host country and their asset allocation motives appear to be driven solely based on financial considerations and not political concerns.

Other researchers have highlighted the economic benefits produced by the investment funds. For instance, finance professors Nuno Fernandes and Arturo Bris of the International Institute for Management Development (IMD) examined over 20,000 SWF holdings in 7,000 companies across 58 countries and determined that SWFs create wealth for fellow shareholders, more so than any other investor class. The researchers concluded that the SWF controversies are “more political than financial” and that SWF ownerships are generally viewed by the markets as positive developments.
With this background, the next two sections will examine the current national and international regulatory frameworks, highlighting the relatively lenient legal environments within which SWFs operate.

**The Current Domestic Regulatory Paradigm**

As of this article’s writing, no governments have placed limitations explicitly intended for the activities of sovereign wealth funds, and there are no supranational entities that regulate SWF activities. Nonetheless, SWF activities may still be subject to certain domestic laws.

In the United States, sovereign wealth investments may potentially be subject to the review of the Committee on Foreign Investment in the United States (CFIUS), an inter-agency entity housed in the federal government. The Committee was originally established in 1975 by an Executive Order and was given the responsibility of “monitoring the impact of foreign investment in the United States . . . and . . . coordinating the implementation of United States policy on such investment.”31 The Executive Order designated key cabinet officers as members and charged them with reviewing “investments in the United States which, in the judgment of the Committee, might have major implications for United States’ national interests.”32 Under the original scheme, CFIUS’ authority was rather weak. But in 2007, the Foreign Investment and National Security Act (FINSA) transformed CFIUS, initially a Presidential conception created by an executive order, into a Congressionally-sanctioned entity endowed with broader powers.33

Under the Act, the Secretary of Treasury is designated as the Committee’s chairperson, assisted by the Attorney General as well as the Secretaries of Homeland Security, Commerce, Defense, State, and Energy.34 The Secretary of Labor and the Director of National Intelligence are also members, although they are nonvoting, and the President may appoint others whom he/she believes to be of value to the CFIUS deliberations.35

Under FINSA, CFIUS may review “any merger, acquisition, or takeover” by a “foreign person” that could result in foreign control of the U.S.-based entity.36 Such review may be triggered through two mechanisms: (1) if the investing party voluntarily submits its intentions to CFIUS for review37 or (2) if any member of the Committee believes that a foreign investment “may have adverse impacts on the national security.”38 During the review process, the Committee must consider the following factors: “the potential effects of the proposed or pending transaction on sales of military goods, equipment, or technology to any country”39 if the transaction, based on the assessment of the Secretary of Defense, may pose “a potential regional military threat to the interests of the United States;”40 “the potential national security-related effects on United States critical infrastructure, including major energy assets” and “on United States critical technologies;”41 whether the activity is a “foreign government-controlled transaction;”42 and the consideration of the “the long-term projection of United States requirements for sources of energy and other critical resources and material” and “such other factors as the President or the Committee may determine to be appropriate.”43
Once CFIUS investigation is completed, the Committee must provide the President with its analysis and recommendations. Under the Act, the President is the only person who may block a transaction. As of the writing of this article, the President has used the CFIUS process to void or block two investments: in 1990, President George H.W. Bush voided the holdings of the China National Aero-Technology Import and Export Corporation in MAMCO, an American producer of aircraft parts, and in 2012 President Barack Obama blocked the purchase of an Oregon wind farm project by Ralls Corp., a company owned by Chinese nationals.

Because CFIUS reviews are largely done in secret, it is not clear whether the Committee has ever investigated any SWF-related activities. The Committee’s reports to Congress suggest an overall increase in investigations between 2009 and 2011 (Figure 5) and a high percentage of the cases involving financial, information, and services (Figure 6). While there is no clear evidence that any of the investigations involved sovereign wealth funds, the data suggest at least the possibility.

**Figure 5.** CFIUS Covered Transactions, Withdrawals, and Presidential Decisions 2009–2011

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Notices</th>
<th>Notices Withdrawn During Review</th>
<th>Number of Investigations</th>
<th>Notices Withdrawn During Investigation</th>
<th>Presidential Decisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>65</td>
<td>5</td>
<td>25</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>2010</td>
<td>93</td>
<td>6</td>
<td>35</td>
<td>6</td>
<td>0</td>
</tr>
<tr>
<td>2011</td>
<td>111</td>
<td>1</td>
<td>40</td>
<td>5</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>269</td>
<td>12</td>
<td>100</td>
<td>13</td>
<td>0</td>
</tr>
</tbody>
</table>

Source: Committee on Foreign Investment in the United States Annual Report To Congress CY 2011/Issued December 2012

**Figure 6.** CFIUS Covered Transactions by Sector and Year 2000–2011

<table>
<thead>
<tr>
<th>Year</th>
<th>Manufacturing</th>
<th>Finance, Information, and Services</th>
<th>Mining, Utilities, and Construction</th>
<th>Wholesale, Retail, and Transportation</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>21 (32%)</td>
<td>22 (34%)</td>
<td>19 (29%)</td>
<td>3 (5%)</td>
<td>65</td>
</tr>
<tr>
<td>2010</td>
<td>36 (39%)</td>
<td>35 (38%)</td>
<td>13 (14%)</td>
<td>9 (10%)</td>
<td>93</td>
</tr>
<tr>
<td>2011</td>
<td>49 (44%)</td>
<td>38 (34%)</td>
<td>16 (14%)</td>
<td>8 (7%)</td>
<td>111</td>
</tr>
<tr>
<td>Total</td>
<td>106 (39%)</td>
<td>95 (35%)</td>
<td>48 (18%)</td>
<td>20 (7%)</td>
<td>269</td>
</tr>
</tbody>
</table>

Source: Committee on Foreign Investment in the United States Annual Report To Congress CY 2011/Issued December 2012
Other governments have also imposed limits on foreign ownership. The British government, for instance, exercises “golden shares,” whereby it may outvote all other shareholders if it deems a transaction to be against British interests, and it also imposes a 29.5% limit on foreign investments in its strategic industries. Likewise, Germany’s Foreign Trade and Payments Act enables the government to curb foreign investments in defense-related companies, an approach also adopted by Canada and Japan, both severely restricting foreign ownership in several industrial sectors.

The Current International Law Framework

Currently, no supranational entities regulate sovereign wealth funds, despite calls for SWF activities to be regulated by a single transnational entity or a joint venture of two or more international organizations. But, in 2008, several sovereign wealth funds formed the International Working Group of Sovereign Wealth Funds (“IWG”) under the auspices of the International Monetary Fund, and wrote the Generally Accepted Principles and Practices (GAPP) – “Santiago Principles” – a document of international soft law consisting of twenty-four best practices principles.

International soft law is a type of international policy synchronization that is not legally binding on its own. Often, if not always, the law escapes the generally prolonged treaty ratification procedures. As such, agreements on soft law are typically attained more swiftly than treaties or other officially binding international requirements. If one examines the GAPP principles closely, it becomes clear that they are not specifically-explained or defined regulations but rather overarching “should” (rather than “must”) principles-based guidelines of best practices. In effect, the GAPP provide a framework outside of the formal accession processes of the member-states. The GAPP denote no enforcement mechanisms, no tribunal for non-compliance, and no mandatory reporting of compliance to any authority – national or supranational.

In effect, SWFs, through the GAPP, make unenforceable promises to:

1. Themselves, in terms of internal governance procedures and sound management;
2. The owner governments, in terms of providing them with accurate reporting;
3. The broader public, in terms of transparent disclosure of their activities; and
4. The host countries, in terms of coordination, compliance with domestic laws, and general good will.
Ultimately, the Santiago Principles are a series of non-binding principles forming the only international law instrument currently affecting SWF behavior in the equity markets.

Conclusion

Sovereign wealth funds are a diverse group in many respects: countries of origin, size, investment strategies, asset allocation, and their underlying purpose. They are rapidly redefining international financial relations by involving governments as direct investors in global financial markets, operating in a rather weak regulatory environment.

In many ways, SWFs have benefited the corporate recipients of their investments, the host countries, and their fellow shareholders. Yet, suspicions surrounding their activities abound. Much of the cynicism has been directed at the SWFs’ stock investments. As such, the calls for SWF regulation have mostly been about how to limit the funds’ prowess as shareholders, through CFIUS-like reviews or the suspension of their voting rights.

Such propositions are misplaced. As this paper has demonstrated, sovereign wealth funds invest in countless asset classes, including currencies and commodities, and can also act through proxies such as hedge funds. Accordingly, the equity-focused approach for regulation overlooks the numerous tools that SWFs have at their disposal to affect the global markets. As national and supranational policymakers attempt to regulate SWF behavior, they should be mindful of the multi-dimensional aspects of the funds’ activities as well as the funds’ positive impact on the financial markets.

Furthermore, based on the evidence examined, there is simply no proof at this point suggesting that SWFs make equity investment decisions based on malicious intent or geopolitics. Investments by sovereign wealth funds may, in fact, have created an unprecedented level of global financial interdependence that could only reduce geopolitical risk concerns in the future and even enhance political stability. Given the importance of the free flow of capital in the interdependent markets of the twenty-first century, and given the fragility of the world’s economies, national and supranational lawmakers must avoid protectionist temptations and not treat SWFs as market pariahs.

There are, of course, legitimate policy questions to be asked. For instance, should SWFs operate under a different regulatory umbrella and be applied different standards than conventional investment management entities? Should SWFs be prohibited from short-selling? Should SWFs be able to become majority shareholders or have a controlling stake in the host countries’ companies? If, indeed, SWFs are applied different standards, could the double-standard in regulation drive them from the transparent markets into the more opaque ones, creating unintended and unforeseen risks and consequences?
Regulatory actors have a duty to keep an open mind and ask the right questions. Sovereign wealth funds, too, have a responsibility to be as transparent as possible in order to bridge the large gap of mistrust between themselves and many of their hosts. The sovereign wealth fund universe’s voluntary creation of the International Working Group of Sovereign Wealth Funds has been a step in the right direction, but only the beginning. The Santiago Principles, after all, are non-binding and solely consist of soft laws. The IWG must strive toward making the principles compulsory to build host country confidence—not an easy task.

Sovereign wealth funds are not temporary, passing phenomena. They are here to stay, and their strength and presence in the financial markets will only intensify and increase throughout the years. SWFs will continue to have profound implications on international financial relations. Their full integration into the global financial markets is crucial to the efficient free flow of capital, the lifeblood of the twenty-first century commerce. The integration will only be accomplished when the mistrust between host country politicians and SWF decision-makers is overcome. Y

— Mark J. Redmond served as Lead Editor for this article.

NOTES


6 Ibid.


22 Ibid.
27 Ibid.
28 Ibid.
30 Ibid.
32 Ibid.
34 Ibid.
35 Ibid., § 3(k)(2)–(3).
36 Ibid., § 2(a)(3).
37 Ibid., § 2–3.
38 Ibid.
40 Foreign Investment and National Security Act, § 4.
41 Ibid.
42 Ibid., § 4(8).
43 Ibid., § 4(10).
47 Ibid.
48 GAPP 1, 6, 8, 11–13, 18, 19.
49 GAPP 5, 23.
50 GAAP 2, 4, 16, 18.
51 GAAP 3, 14, 15, 17, 20.