

Insider trading and the securities market

[Economics](#), [Trade](#)



Executive Summary The capital markets industry in the global arena has reached a value of \$97, 732. 3 billion dollars as of 2005. The industry is made up of the bond market and United States accounts. The bond market makes up 58. 2% of the global industry's value, while the US accounts make up 40. 9% of the global value. The capital markets accounts for the total world stock market capitalization and bonds outstanding. Currency conversions have been calculated by using 2005's constant annual average exchange rates.

(Datamonitor, p 6) With a multi-billion dollar industry, regulations must be put into place to dissuade the white collar criminal. The most prevalent crime in this industry is that of insider trading. Insider trading continues to increase and the Securities and Exchange Commission (SEC) is discovering that they are having more and more trouble with prosecuting these offenders. The SEC has developed new rules and amendments that will address the disclosure of material nonpublic information by issuers.

These new rules will also clarify two additional issues under the law of insider trading. The two rules rule 10b5-1 that relates to the issue of when insider trading liability arises with the trader's " use" or " knowing possession" of material nonpublic information and rule 10b5-2 which relates to the issue of when a breach of a family or other non-business relationship may give rise to liability under the misappropriation theory of insider trading. Regulation FD (Fair Disclosure) addresses selective disclosure.

This regulation covers that when an issuer discloses material nonpublic information to certain people such as securities market professionals, or

holders of the issuer's securities who may trade on the basis of the information, public disclosure of this information must occur. (Final Rule, SEC. p 2)

Industry Background The financial services industry encompasses a variety of services that include securities dealers and brokers, investment management and mutual funds firms, insurance companies, credit card companies, as well as investment and commercial banks.(http://www.vault.com/nr/main_article_detail.jsp?article_id=2592104&cat_id=0&ht_type=7) The global capital market is highly competitive as is most of the financial industry. The leaders in the industry are all large multinational corporations that have operations in a diverse range of financial sectors.

Some of these leaders include Goldman Sachs, JP Morgan Chase, Morgan Stanley, UBS Wallburg and Merrill Lynch. The entire industry has suffered over the last few years related to the technology bubble bursting and some high profile corporate scandals.(http://ezproxy.strose.edu:2088/servlet/BCRC?vrsn=157&locID=nysl_ca_csr&srchtp=glbi&c=2&iType=naics&mode=i&ste=87&tbst=tsIS&cind=523+--+Securities%2C+Commodity+Contracts%2C+and+Other+Financial+Investments+and+Related+Activities&tab=2048&mst=Financial&docNum=A137278318&bConts=2306).

With the capital market industry being at a global level, regulations are vast and cover many different applications of the industry. One of the most highly scrutinized areas that public policy investigates is that of insider trading.

Insider trading is the buying or selling of securities based upon access to confidential information that is not available to the general public. An insider is one who is restricted from trading in a company's stock as a result of him/her having access to such privileged information. This highly controversial issue is closely watched by the Securities and Exchange Commission. Insider trading has been an ongoing issue in the United States since the crash of the stock market back in the 1930s. It was after the market crash that President Franklin D.

Roosevelt passed the Securities Act of 1933. President Roosevelt also passed the Securities Exchange Act of 1934. The Securities Act of '33 was developed to oversee the public distribution of securities for the first time, while the 1934 Act oversees the subsequent trading in those securities among private investors. (<http://www.business.uiuc.edu/broker/pdf/insider.pdf>) However, insider trading continues today and is becoming more and more difficult to prosecute. Not only is insider trading an issue in the United States, but it has moved between country borders.