

**GRAND DUCHY OF LUXEMBOURG**

**FEDERATIVE REPUBLIC OF  
BRAZIL**

**COMMISSION DE SURVEILLANCE DU  
SECTEUR FINANCIER**

**COMISSÃO DE VALORES  
MOBILIÁRIOS**

## **MEMORANDUM OF UNDERSTANDING**

The Commission de Surveillance du Secteur Financier of Luxembourg and the Brazilian Comissão de Valores Mobiliários ("CVM")

Considering, in the light of the increasing international activities in the securities markets, the need for mutual cooperation and consultation in order to facilitate the performance of their functions in the matters mentioned hereinafter;

Considering the importance of ensuring compliance with and enforcement of the securities laws and regulations of Luxembourg and Brazil;

Desiring to establish the fullest mutual assistance in order to facilitate the performance of the functions they are entrusted with in their respective States to enforce or secure compliance with any law or regulations, as that term is defined herein;

Have reached the following Understanding:

### **Article 1: Purpose of the Memorandum of Understanding**

The purpose of this Memorandum of Understanding ("Understanding") is to establish a system for mutual assistance between the administrative Authorities designated hereinafter, in order to facilitate the performance of the functions they are entrusted with by any law or regulations, as that term is defined herein, including those which:

- (a) protect the rights of investors to obtain timely and accurate information regarding the issuers of securities;
- (b) prohibit and provide sanctions against the abusive use of confidential information and any other action which would hinder or disrupt the fair and orderly functioning of the market;
- (c) ensure compliance by all market participants with the laws and regulations governing market procedures and organization; and
- (d) ensure compliance by all securities and investment professionals with the laws and regulations governing their professions and their operations on the securities markets, including laws and regulations concerning the transmission and execution of orders or the management of individual or collective portfolios of securities.

### **Article 2: Definitions**

For the purposes of this Understanding:

(1) "Authority" means:

- (a) the Commission de Surveillance du Secteur Financier; or
- (b) Comissão de Valores Mobiliários.
- (2) "Requested Authority" means an Authority to whom a request is made under this Understanding.
- (3) "Requesting Authority" means an Authority making a request under this Understanding.
- (4) "Person" means a natural person or legal entity.
- (5) "Securities" means stocks, bonds, debentures, notes negotiable, futures contracts, and any other derivative or financial products, options, rights, contracts, or documents that fall within the jurisdiction of the Authorities.
- (6) "Issuer" means a person who issues or proposes to issue any security.
- (7) "Securities market" means an exchange or other market, including an over-the-counter market, for equity securities, debt securities, bonds, options, or any other security that is recognized, regulated, or supervised by the Authorities.
- (8) "Investor" means a person who directly or indirectly has, holds, or places an order to obtain a beneficial interest in securities.
- (9) "Professional carrying out operations on the securities markets" means any person who engages in the business of purchasing, selling, transferring, clearing, or settling securities; collecting, executing, or transmitting orders given by investors concerning the purchase or sale of securities; engaging for his own account, or for the accounts of investors, in the management of individual or collective securities portfolios; or advising others in these matters; and
- (10) "Laws or regulations" means the provisions of the laws, regulations, and other regulatory requirements applicable in Luxembourg and in Brazil.

### **Article 3: Scope of the Memorandum of Understanding**

1. The Authorities intend to provide each other the maximum assistance possible to the extent permitted by their domestic law, in order to facilitate between such authorities the exchange of information relating to investigations to determine whether there has been a violation of the laws or regulations of the State of the requesting Authority. For that purpose, they will:

- (a) provide information in the files of the requested Authority;
- (b) take statements from persons;
- (c) obtain documents from persons;

### **Article 4: General Principles**

1. This Understanding does not create binding obligations under international law.

2. Assistance under this Understanding may be denied where:

- (a) the execution of the request would prejudice the sovereignty, security, fundamental economic interests, or public order of the State of the requested Authority;
- (b) the request is not in accordance with the provisions set forth in this Understanding;
- (c) the information requested concerns facts that have originated before the date of effect of this Understanding;
- (d) a criminal proceeding has already been initiated in the State of the requested Authority based upon the same facts and against the same persons, or the same persons have already

been finally sanctioned on the same charges by the competent authorities of the State of the requested Authority.

#### **Article 5: Requests for Assistance**

1. Requests for assistance must be made in writing and addressed to the requested Authority's contact person listed in Appendix A.

2. The request for assistance shall specify the following:

(a) the information sought by the requesting Authority;

a. a general description of both the matter that is the subject of the request and the purpose for which the information is sought;

(c) the persons or entities suspected by the requesting Authority of possessing the information sought, or the places where such information may be obtained, if the requesting Authority is knowledgeable thereof;

(d) the laws or regulations pertaining to the matter that is the subject of the request; and

(e) the desired time period for the reply and, where appropriate, the urgency thereof.

3. In the event of urgency, requests for assistance and replies to such requests may be transmitted by summary or emergency procedures provided that they are confirmed in the manner prescribed in paragraphs 1 and 2 of this Article.

#### **Article 6: Execution of Requests**

1. Subject to articles 1, 2, 3, 4, and 5, the requested Authority will provide to the requesting Authority the information that it holds or that it may obtain by such means as may be determined by the requested Authority, in accordance with the applicable domestic rules.

#### **Article 7: Permissible Use of Information**

1. The requesting Authority may use the information furnished solely:

(a) for purposes stated in the request, including ensuring compliance with and enforcement of the laws or regulations specified in the request and related provisions; and

(b) for purposes within the general framework of the use stated in the request including conducting a civil or administrative enforcement proceeding, or market surveillance, assisting in a criminal prosecution, or conducting any investigation related thereto for any general charge applicable to the violation of the laws or regulations specified in the request.

2. To use the information furnished for any purpose other than those stated in paragraph 1 of this Article, the requesting Authority must first inform the requested Authority of its intention and provide it the opportunity to oppose the use. If the requested Authority opposes the use, the information may be used only under conditions imposed by the requested Authority.

#### **Article 8: Confidentiality of Requests and Information Provided**

1. Each Authority shall keep confidential, to the extent permitted by law, requests made within the framework of this Understanding, the contents of such requests, and any other matters arising during the operation of this Understanding, including consultations between the Authorities.

2. The requesting Authority shall keep confidential any information received pursuant to this Understanding to the same extent as such information would be kept confidential in the territory of the State of the requested Authority, except in the case where the information provided must be disclosed in the course of its use pursuant to Article 7 above, and will not transmit the requested information to a third party without prior consent of the requested Authority.

3. The Authorities may, by mutual arrangement, make an exception to the principles set forth in paragraphs 1 and 2 above, to the extent permitted by the law applicable to each Authority.

#### **Article 9: Disputes and Consultations**

1. In any case of dispute over the meaning of any term used in this Understanding, the Authorities shall define the terms herein by mutual arrangement.

2. The Authorities will keep the operation of this Understanding under continuous review and will consult with a view to improving its operation and resolving any matters that may arise. In particular, the Authorities will consult upon request in the event of:

(a) a refusal by one Authority to comply with a request for information on the grounds set forth in paragraph 2 of Article 4, or a request to use information on the grounds set forth in paragraph 2 of Article 7; or

(b) a change in market or business conditions or in the laws or regulations or any other difficulty which makes it necessary to amend or extend this Understanding in order to achieve its purposes.

3. The Authorities may make arrangements on such practical measures as may be necessary to facilitate the implementation of this Understanding.

#### **Article 10: Effective Date**

1. This Memorandum of Understanding will be effective from the date of its signing by the Authorities.

#### **Article 11: Termination**

1. This Understanding shall remain in force unless terminated by either Authority upon 30 days written notice to the other Authority.

Signed in this 6th day of October, 2000, in four originals, two in the Portuguese, and two in the English, all texts being equally authentic.

**COMMISSION DE SURVEILLANCE DU SECTEUR  
FINANCIER - LUXEMBOURG**

**COMISSÃO DE VALORES MOBILIARIOS -  
BRAZIL**

**Jean-Nicolas Schaus**  
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