

THE KINGDOM OF BELGIUM

REPUBLIC OF POLAND

COMMISSION BANCAIRE ET  
FINANCIERE/COMMISSIE VOOR HET  
BANK - EN FINANCIWEZEN

KOMISJA PAPIERÓW WARTOŚCIOWYCH  
I GIEŁD

**MEMORANDUM OF UNDERSTANDING ON THE EXCHANGE OF  
INFORMATION  
BETWEEN THE KOMISJA PAPIERÓW WARTOŚCIOWYCH I GIEŁD  
AND  
THE COMMISSION BANCAIRE ET FINANCIERE/COMMISSIE VOOR HET  
BANK - EN FINANCIWEZEN**

*The Komisja Papierów Wartościowych i Giełd and the Commission bancaire et financière/Commissie voor het Bank - en Financieuzen;*

Considering, in light of the increasing globalisation of activities in securities, the need for mutual co-operation, and consultation in order to facilitate the performance of their functions in the areas mentioned hereinafter;

Considering, the importance of ensuring compliance with and enforcement of securities laws and regulations applicable in Belgium and in Poland;

Wishing to achieve the provision of the broadest possible mutual assistance, and the strengthening of co-operation and exchange of information in order to enhance the performance of the supervisory functions and the effective enforcement of the laws and regulations governing financial markets;

Have thus reached the following understanding ;

**Article 1 - Purpose of the Memorandum**

The purpose of this Memorandum is to set up and implement a system for mutual assistance and exchange of information between the Authorities in order to facilitate the fulfilling of their supervisory functions in the field of financial markets, disclosure of financial information, investment firms and undertakings for collective investment.

## Article 2 - Definitions

For the purposes of this Memorandum:

1. “ **Authority**” means:
  - a) the Komisja Papierów Wartościowych i Giełd (KPWIG) of the Republic of Poland,
  - b) the Commission bancaire et financiere/Commissie voor het Bank - en Financieuzen of the Kingdom of Belgium.
2. “**Requested Authority**” means the Authority to whom a request is made under this Memorandum;
3. “**Requesting Authority**” means the Authority making a request under this Memorandum;
4. “**Laws and Regulations**” means the provisions of the laws, regulations and other regulatory requirements applicable in Belgium and in Poland;
5. “**Financial Instruments**” means shares, bonds and other forms of securities debts, futures and derivative products, units of undertakings for collective investment and any other financial products, within the respective competence of the Authorities.
6. “**Issuer**” means a natural or legal person who issues or proposes to issue any security;
7. “**Financial Markets**” means regulated markets and any other market for Financial Instruments supervised by the Authorities;
8. “**Investment Services**” means carrying out and trading transactions involving Financial Instruments on its own account and/or on behalf of and for the account of third parties;
9. “**Investment Services Providers**” means investment firms, credit institutions, and any other person as authorized to provide Investment Services within the law and regulations of the Authorities.

## Article 3 - Scope of assistance

1. The Authorities will provide each other with the fullest assistance under this Memorandum, to the extent permitted by their respective national laws and regulations, in order to facilitate the performance of their respective supervisory duties. The Requested Authority will provide access to the information it holds to the Requesting Authority and when possessing the legal authority to do so, exercise its powers as necessary to obtain all useful information to comply with the request.
2. The Authorities agree that the scope of assistance of this memorandum covers the applications for membership of the financial markets subject to the jurisdiction of the authorities and the supervision of the members of these markets.
3. Each authority agrees, with respect to intermediaries under its supervision that are or apply to become remote members of the financial markets supervised by the other authority to use its best efforts to provide to the other Authority objective information concerning the fitness

and propriety to conduct investment business or the financial capacity of these intermediaries.

4. The Authorities may agree on further cooperation arrangements regarding applications for membership of the financial markets subject to the jurisdiction of the authorities and regarding the supervision of the members of these markets.
5. The information is exchanged pursuant to the provisions of any of the Laws and Regulations and the requirements of any relevant international agreements.
6. Assistance under this Memorandum may be denied, in particular:
  - a) where the execution of the request would prejudice the sovereignty, the security, the fundamental economic interests or public policy of the State of the Requested Authority;
  - b) where the exchange of information is contrary to the provisions of this Memorandum;
  - c) where criminal proceedings have already been initiated or where final judgement has already been passed or administrative sanctions have already been applied by the competent Authorities, in the jurisdiction of the Requested Authority, in respect of the same facts and against the same persons;
7. The denial of assistance does not undermine the right of the Authorities to consult each other. When the Requested Authority does not possess the legal authority to provide the assistance requested, the Requested Authority and the Requesting Authority will consult on other possible means of dealing with the request.
8. Without prior request for assistance, the Authorities may transmit to each other information they hold and which they may consider useful to the other Authority in the performance of its functions and for the purposes that may be specified in the transmission letter, in which event the terms and conditions of this Memorandum will apply if the providing Authority specifies that the information is given under this Memorandum.
9. This Memorandum constitutes a basis for co-operation between the Authorities and neither changes nor replaces the Laws and Regulations enforceable in the jurisdiction of Belgium and Poland. This Memorandum does not grant any rights to be executed by a third party and does not affect any other agreement or memorandum. The execution of these provisions cannot prejudice the public policy of the State of the Requested Authority.

#### Article 4 - Requests for assistance

1. Requests for assistance shall be made in writing and addressed to the Requested Authority's contact person listed in Appendix A.
2. The request for assistance must specify the following:
  - a) a general description of the information sought by the requesting Authority;
  - b) a general description of both the matter which is the subject of the request and the purpose for which the information is sought;

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- c) in so far as the request results from investigations of violations of any laws or regulations, a description of the relevant provisions that may have been violated;
- d) if known to the Requesting Authority, a list of the persons or institutions believed by the Requesting Authority to possess the information sought or the places where such information may be obtained;
- e) an indication of the urgency of the request, or the desired time period for the reply.

#### **Article 5 - Execution of requests**

1. Subject to Articles 1, 3 and 4, 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 national laws and regulations of the Requested Authority.
2. The information should be transmitted to the person listed in Appendix A.

#### **Article 6 - Permissible use of information**

1. The Requesting Authority shall use the information furnished solely for purposes stated in the request, with a view to ensuring compliance with or enforcement of the national laws or regulations specified in the request.
2. The information provided without prior request for assistance to an Authority shall not be used for any purpose other than those stated in the transmission letter, except where it is of relevance in any subsequent criminal proceeding.
3. If the Requesting Authority wishes to use the information provided for any purpose other than those stated in paragraphs 1 and 2 of this Article, but remaining within the scope of this Memorandum, including the transmission of this information to other competent regulators in the field of securities, it must first seek permission from the Requested Authority. If the Requested Authority agrees to the use of the information for purposes other than those stated in sections 1 and 2 of this Article, such use may be made subject to certain conditions. The Requested Authority may refuse such use of the information; in that case, the Authorities will consult each other pursuant to Article 8 regarding the reasons for refusal and the circumstances under which use of the information might otherwise be allowed.

#### **Article 7 - Confidentiality of the requests and information exchanged**

1. Each Authority shall keep confidential, to the extent permitted by law, requests or communications of information, made within the framework of this Memorandum, the contents of such requests, and any other matters arising during the implementation of this Memorandum, including consultations between the Authorities.
2. In all cases, the Requesting Authority shall keep confidential, to the extent permitted by law, any information received pursuant to this Memorandum to the same extent as such

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information would be kept confidential under the national laws and regulations of the Requested Authority.

### **Article 8 - Consultations**

1. The Authorities agree to inform each other on any development in the laws and regulations affecting the scope of this Memorandum, and to consult each other on a periodic basis and whenever necessary.
2. The Authorities will keep the operation of this Memorandum under continuous review and will consult each other with a view to improving its operation and resolving any matters which may arise. In particular the Authorities should consult each other in case of:
  - a) refusal to provide assistance;
  - b) disagreement in the use of the information provided as mentioned in Article 6;
  - c) significant change in the economic situation or the legal provisions which, in accordance with the purpose of this Memorandum, requires a change in its contents.
3. The Authorities may agree such further arrangements of a practical nature as may be necessary to facilitate the implementation of this Memorandum.
4. Should disagreement concerning the interpretation of this Memorandum arise, the Authorities will consult each other with a view to reaching a mutually acceptable interpretation.

### **Article 9 - Costs of assistance**

Where substantial imbalance has arisen in the cumulative cost incurred, the Authorities will consult about the handling of costs.

### **Article 10 - Amendments to the Memorandum**

Further to consultations held pursuant to Article 8, the Authorities may agree on amendments to the present Memorandum as may be necessary to enhance the effectiveness of this Memorandum.

### **Article 11 - Publication**

The Authorities agree to publish this Memorandum.

### **Article 12 - Effective Date**

This Memorandum will come into effect from the date of signature.



### Article 13 - Termination

This Memorandum shall be concluded for an unlimited period of time and may be terminated by any Authority at any time by giving 30 days prior written notice to the other Authority. Where the Requested Authority gives such notice, this Memorandum will continue to have effect with respect to all requests for assistance made before the date of receipt of the notification.

IN WITNESS WHEREOF the Undersigned have signed this Memorandum.

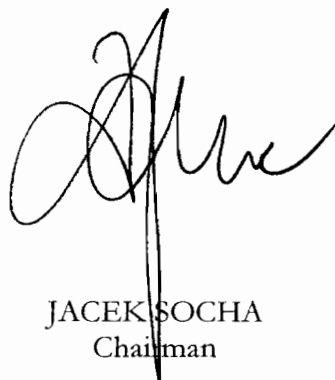
DONE in Warsaw, on 3<sup>rd</sup> March 2003, in eight versions, two in French, two in Dutch, two in Polish and two in English. These versions shall be equally binding, any doubts shall, however, if appropriate be resolved on the basis of the English version of the Agreement.

FOR THE COMMISSION BANCAIRE ET  
FINANCIERE/COMMISSIE VOOR HET  
BANK - EN FINANCIWEZEN



EDDY WYMEERSCH  
President

FOR THE KOMISJA PAPIERÓW  
WARTOŚCIOWYCH I GIEŁD



JACEK SOCHA  
Chairman