

## MEMORANDUM OF UNDERSTANDING

The **Commission de Surveillance du Secteur Financier** of Luxembourg, a public institution established by law of December 23, 1998, and

the **Securities Market Commission** of the Republic of Latvia, a public institution established by law of August 24, 1995

**Sharing** the goal of promoting investor protection;

**Observing** the growth of global securities markets and cross-border investment management activity and the continuous development and innovation in financial products and activities in the investment management area; and

**Believing** that, in light of these developments it is appropriate to formalize and systematize mechanisms that currently exist and are operating for sharing information where an Authority is located in one jurisdiction and an Investment Management Person located in another,

have reached the following Memorandum of Understanding:

### 1. DEFINITIONS

For the purposes of this Memorandum:

- (a) "Associated Persons" means persons and entities affiliated or associated with, or doing business relating to the investment management activities of, Investment Management Persons and subject to the supervision of the Authorities;
- (b) "Authority" means the Commission de Surveillance du Secteur Financier (CSSF) or the Securities Market Commission;
- (c) "Auditor" means the independent auditor of an Investment Management Person;
- (d) "Books and Records" means documents, books and records of, and other information about, Investment Management Persons;
- (e) "Dual Registrants" means Investment Management Persons that are authorized by, registered with or licensed by both Authorities or who are authorized by or registered with one Authority and manage or advise funds authorized by the other Authority;

- (f) "Inspection Report" means a report, prepared by an Authority, summarizing the results of a review or examination of an Investment Management Person;
- (g) "Management Letter" means a written communication from an Auditor, summarizing the results of his review of the financial statements of an Investment Management Person;
- (h) "Special Report" means a report, prepared by an Auditor at the request of the Authorities, summarizing the results of his review of specific aspects relating to the activities and business of an Investment Management Person;
- (i) "Host Authority" means the Authority in whose jurisdiction an Investment Management Person is located;
- (j) "Investment Management Persons" means investment advisers, investment fund managers, fund administrators, fund depositories, investment companies and investment funds, subject to the respective laws and regulatory requirements of Luxembourg or the Republic of Latvia, and their Associated Persons.

## **2. SCOPE OF SUPERVISORY COOPERATION**

- 2.1. The Authorities intend to provide each other the fullest possible cooperation in assisting in the enforcement of their respective laws and regulatory requirements governing Investment Management Persons. It is anticipated that such cooperation will include assistance in the oversight of Investment Management Persons located in the jurisdiction of a Host Authority and subject to the regulatory oversight of the other Authority.
- 2.2. Under this Memorandum, the Authorities will assist each other by exchanging information concerning Investment Management Persons that are Dual Registrants.
- 2.3. The Authorities intend to keep each other advised of significant changes in the laws and regulatory requirements relevant to their cooperation under this Memorandum. Nothing in this Memorandum limits, expands or affects the respective jurisdictions of the Authorities.
- 2.4. To facilitate cooperation under this Memorandum, the Authorities hereby designate contact persons as set forth in the Attachment.

## **3. EXCHANGE OF INFORMATION**

- 3.1. The Authorities intend to provide each other and update on a regular basis a list identifying the names of Dual Registrants.
- 3.2. Each Authority intends to notify the other of the commencement of an investigation, or other regulatory action involving or affecting a Dual Registrant identified on the list referred to in paragraph 3.1. above.



- 3.3. The Securities Market Commission intends to provide to the CSSF, on a routine basis and without advance request, copies of Inspection Reports of Dual Registrants established in the Republic of Latvia. The CSSF intends to provide to the Securities Market Commission, on a routine basis and without advance request, copies of Management Letters and Special Reports concerning Dual Registrants established in Luxembourg.
- 3.4. Each Authority intends to provide the other, upon request and consistent with the laws and regulatory requirements which govern it, assistance in obtaining information concerning the contents of public and non-public Books and Records relating to Investment Management Persons.
- 3.5. Each Authority intends, upon request and consistent with the laws and regulatory requirements which govern it, to provide other information located in its jurisdiction that may be relevant to the other Authority's review, examination or determinations pertaining to the registration, authorization or licensing status of Investment Management Persons.
- 3.6. To the extent permitted by applicable laws and practices, each Authority will use reasonable efforts to ensure that the other Authority is provided with any relevant information discovered which gives rise to a suspicion of a breach, or anticipated breach, of the laws or regulatory requirements in the other territory by a Dual Registrant.

#### **4. CONFIDENTIALITY AND USE OF INFORMATION**

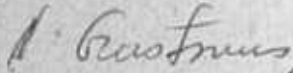
- 4.1. Assistance or information will be provided under this Memorandum by one Authority ("the Disclosing Authority") only for the purpose of assisting the other Authority ("the Receiving Authority") in the performance of its regulatory functions. To the extent permitted by law, any confidential information so provided should only be used by the Receiving Authority for such purpose and should not be disclosed to any third parties without the prior consent of the Disclosing Authority. Each Authority will establish and maintain such safeguards as are necessary and appropriate to protect the confidentiality of such information.
- 4.2. When the Receiving Authority discloses information to another person, that Authority will obtain an undertaking from the other person that it will maintain the confidentiality of the information, except when disclosure is required pursuant to a legally enforceable demand.
- 4.3. If the Receiving Authority becomes aware that information passed to it under this Memorandum may be subject to a legally enforceable demand to disclose, it will, to the extent permitted by laws, inform the Disclosing Authority of the situation. Where the Disclosing Authority indicates to the Receiving Authority that it wishes the Receiving Authority to resist the demand, the Receiving Authority shall resist disclosure as far as is practicable under the law and, if necessary and appropriate, claim public interest immunity.
- 4.4. Both Authorities, in providing confidential written materials pursuant to this Memorandum, should mark every page of the material provided with a legend reading substantially as follows: "Confidential – provided pursuant to the Memorandum of Understanding".

5. CONSULTATIONS

The Authorities intend to engage in regular consultations regarding investment management activity in their markets, and to review this Memorandum periodically for the purpose of assessing its operation.

Signed on ..... 2001, in two originals

On behalf of the  
Securities Market Commission  
of the Republic of Latvia



Mr Viktors Gustsons  
Chairman



On behalf of the  
Commission de Surveillance  
du Secteur Financier



Mr Jean-Nicolas SCHAUS  
Director General

## ATTACHMENT

The Commission de Surveillance du Secteur Financier designates as its contact person:

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The Securities Market Commission designates as its contact persons:

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