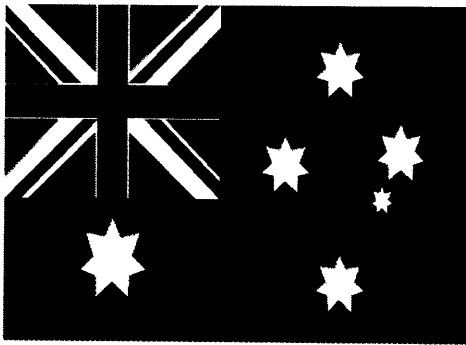
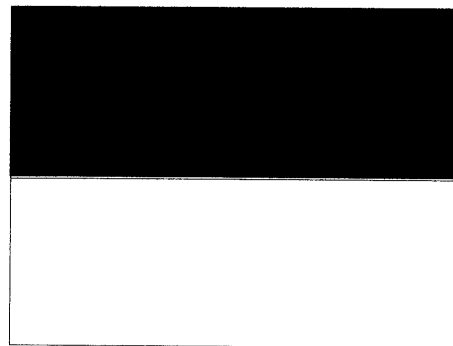


# **MEMORANDUM OF UNDERSTANDING**



**AUSTRALIAN  
SECURITIES  
COMMISSION**



**CAPITAL MARKET  
SUPERVISORY  
AGENCY OF INDONESIA**

**JAKARTA  
FEBRUARY 20, 1997**

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE AUSTRALIAN SECURITIES COMMISSION  
AND  
THE CAPITAL MARKET SUPERVISORY AGENCY OF INDONESIA  
IN RELATION TO  
MUTUAL ASSISTANCE AND EXCHANGE OF INFORMATION**

RECOGNIZING the significance of the securities industry as an impetus for economic growth and development;

SHARING the common goals of:

- (i) developing and maintaining open, fair, efficient, sound and disciplined securities markets; and
- (ii) preserving the integrity of the securities industry;

BELIEVING the development of the respective securities markets in Australia and Indonesia will assist in facilitating economic development and the raising of capital;

1. The Australian Securities Commission and Capital Market Supervisory Agency of Indonesia (“the Authorities”) hereby express their mutual intention to make concerted efforts to promote the development of appropriate regulatory mechanisms for their respective securities markets.

2. The Australian Securities Commission (ASC) is the national corporate securities and futures regulator established under section 7 of the ASC Law. The ASC is responsible for the administration and enforcement of the Corporations Law, Corporations Regulations, ASC Law and ASC Regulations that provide for the regulators of corporations and the securities and futures industries and markets. The ASC’s power to exercise coercive powers on behalf of foreign regulations is governed by the *Mutual Assistance in Business Regulation Act 1992*.

3. The Capital Market Supervisory Agency of Indonesia (BAPEPAM) is established under Law No 8 of 1995 concerning Capital Market. BAPEPAM is responsible for the administration and enforcement of the Capital Market Law, Government Regulations, Decrees of the Minister of Finance, and Rules and Circulars of the Capital Market Supervisory Agency, BAPEPAM that provide for the activities of capital market participants.

### **Technical Assistance**

4. The Authorities intend to consult each other and to provide advice to one another with a view to establishing and implementing an ongoing technical assistance program for the development, administration and operation of their respective securities markets.

5. Such consultations will identify the specific types of technical assistance that the Authorities believe are necessary and reasonable. Such assistance may include the training of personnel as well as the provision of information and advice relating to the development of:

- (i) Securities clearance and settlement mechanisms;
- (ii) Regulatory requirements relating to market professionals and capital adequacy;
- (iii) Systems and related regulatory mechanisms relating to accounting, risk management and disclosure standards;
- (iv) Systems necessary for effective market surveillance and enforcement efforts; and
- (v) Laws, regulations, rules, guidelines, procedures and practices to protect investors.

### **Mutual Assistance and Exchange of Information**

6. The Authorities consider that it is desirable to establish a framework to enhance the exchange of technical assistance, information and investigative assistance in respect of matters relating to the operation of their respective securities markets and the general protection of investors.

In furtherance of these objectives, the Authorities will endeavour to provide each other, with the necessary assistance including the exchange of information to facilitate the effective administration and enforcement of their respective laws, regulations, rules, guidelines, procedures and practices relating to their respective securities markets.

7. In relation to enforcement matters mentioned above, the Authorities will use their best endeavours to effect mutual assistance and the exchange of information on:

- (i) fraudulent practices in relation to securities;
- (ii) monitoring the securities market and reviewing the qualification and properness of market participants;
- (iii) disclosure of securities issues;
- (iv) mergers and acquisitions; and
- (v) other matters as may be agreed upon.

8. Requests for information or other assistance will be made in writing in English and will be signed by one of the contact persons set out in Appendix A. Requests for information will specify:

- (i) a description in general terms of the subject matter of the request and of the facts of the matter including in particular;
- (ii) a description in general terms of the assistance sought;
- (iii) the purpose for which the assistance is sought;
- (iv) a copy of the specific sections of the laws and regulations pertaining to the matter which is the subject of the request and a statement of the way in which the facts give rise to a belief or suspicion that the law has been, or may have been, contravened;
- (v) the purpose for which the information, evidence or documents is to be used or may at any future time be used;
- (vi) the name, telephone number, and fax number of an officer of the requesting Authority who is familiar with the subject matter of the

request and who will be available to answer queries or clarify matters relating to the request if asked to do so by requested Authority; and

- (vii) the desired time period for the reply.

### **Costs of Assistance**

9. The requested Authority may, as a condition of agreeing that assistance is given under this Memorandum of Understanding, require the requesting Authority to make a contribution to costs. Such a contribution may, in particular, be required where the cost of a request is substantial or where a substantial imbalance has arisen in the cumulative costs incurred.

### **Confidentially**

10. The Authorities recognize that the specific assistance mentioned above may only be provided as permitted by the relevant legislation. In this regard, the Authorities will be cognizant of the constraints imposed by law on the disclosure of confidential information.

11. The Authorities will not disclose confidential information obtained pursuant to this Memorandum of Understanding to any other persons, nor use such Information for any purpose other than the declared purpose for which the information was obtained, without first receiving consent in writing from the provider of the Information, unless that use or disclosure is required by law.

12. The Authorities will not pass any information obtained pursuant to a request which is contrary to any undertaking in relation to the requested information required by the law of the jurisdiction of the requested Authority and provided by the requesting Authority.

### **Entry Into Force**

13. In the Authorities attempts to achieve the above, this Memorandum of Understanding shall not be treated as creating any binding international legal obligation or rights.

14. To further ensure the effective operation of this Memorandum of Understanding, the Authorities have delegated the Officials set out in Appendix A as the contact persons to this Memorandum of Understanding.

15. This Memorandum of Understanding shall remain in effect unless terminated by any one of the Authorities.

Signed this 20th day of February 1997 in Indonesia.

**FOR THE AUSTRALIAN  
SECURITIES COMMISSION**



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**Alan Cameron  
Chairman**

**FOR THE BADAN PENGAWAS  
PASAR MODAL (CAPITAL  
MARKET SUPERVISORY AGENCY  
OF INDONESIA)**



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**I Putu Gede Ary Suta  
Chairman**

**APPENDIX A**  
**CONTACT OFFICERS**

The Australian Securities Commission, Level 16, The Chifley Tower,  
2 Chifley Square, Sydney, NSW 2001, Australia

Attention : Peter Clark  
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Badan Pengawas Pasar Modal  
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Head of Legal Bureau

Phone : (62-21) 5151271  
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