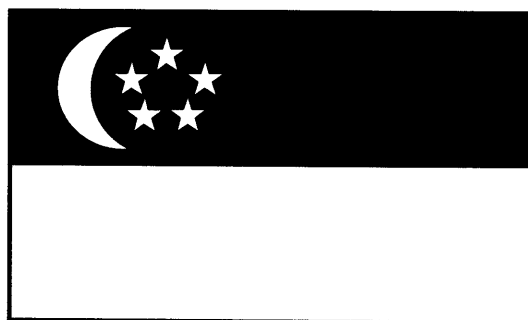
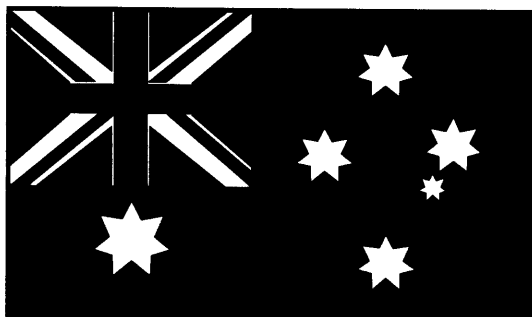


**MEMORANDUM OF UNDERSTANDING  
ON THE EXCHANGE OF INFORMATION AND  
MUTUAL ASSISTANCE**

**BETWEEN**

**AUSTRALIA**

**REPUBLIC OF  
SINGAPORE**



**AUSTRALIAN SECURITIES AND  
INVESTMENTS COMMISSION**

**THE MONETARY AUTHORITY  
OF SINGAPORE**

**MEMORANDUM OF UNDERSTANDING**  
**ON THE EXCHANGE OF INFORMATION AND MUTUAL ASSISTANCE**

*The Australian Securities and Investments Commission and the Monetary Authority of Singapore;*

Considering, in light of increasing internationalization of activities in Securities the need for mutual cooperation 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 Australia and in Singapore;

Have reached the following Memorandum:

**Article 1: Introduction**

- 1.1 The Monetary Authority of Singapore is the national securities regulator established under section 3 of the *Monetary Authority of Singapore Act*. The Monetary Authority of Singapore is responsible for the administration of, among others, the Securities Industry Act and the Futures Trading Act, which provide for the regulation of securities markets and intermediaries, and investor protection in relation to services and products of the securities industry.
- 1.2 The Australian Securities and Investments Commission is the national corporate and securities regulator established under section 7 of the *Australian Securities and Investments Commissions Act 1989*. The Australian Securities and Investments Commission is responsible for the administration and enforcement of the *Corporations Law* and the *Australian Securities and Investments Commissions Act 1989*, which provide for the regulation of corporations, securities markets and intermediaries, and investor protection in relation to financial services and products.

**Article 2: Purpose of the Memorandum**

- 2.1 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 performance of their functions and to enforce or secure compliance with any Laws and regulations of their respective jurisdictions relating to Securities, in particular:
  - (a) assisting in the discovery of and taking action against contraventions of law or regulatory requirements regarding Securities in Australia and Singapore;

- (b) enforcing Laws and regulations relating to the issue of, dealing in, management of and advice regarding Securities;
  - (c) overseeing and monitoring Securities markets and compliance with the relevant Laws and regulations; and
  - (d) promoting and securing the fitness and propriety of persons registered or licensed in the countries of the respective Authorities and promoting high standards of fair dealing and integrity in their conduct of business.
- 2.2 Each Authority agrees that this Memorandum represents the preferred way of obtaining confidential information necessary to ensure compliance with or enforcement of their Laws and regulations. However, it does not prohibit either Authority from taking other measures which conform to international law, to achieve the same purpose. Before resorting to such other measures, the Requesting Authority shall notify the Requested Authority that it intends to resort to such other measures. The Requesting Authority shall, if so requested by the Requested Authority, consult the Requested Authority as to how such measures may affect the interests of the Requested Authority.
- 2.3. This Memorandum does not affect the ability of the Authorities to exchange non-confidential information.
- 2.4 This Memorandum of Understanding does not create any binding legal obligations upon the Authorities or modify or supersede any laws or regulations applicable in Singapore or Australia.

### **Article 3: Definitions**

For the purpose of this Memorandum:

- 3.1 "**Authority**" means:
- (a) the Australian Securities and Investments Commission ; or
  - (b) the Monetary Authority of Singapore
- 3.2 "**Requested Authority**" means the Authority to whom a request under this Memorandum is made;
- 3.3 "**Requesting Authority**" means an Authority making a request under this Memorandum;
- 3.4 "**Laws and regulations**" means the provisions of the laws, regulations and other regulatory requirements applicable in Australia and in Singapore;

- 3.5 **"Person"** means a natural person, legal entity, partnership or unincorporated association;
- 3.6 **"Securities"** means shares, units of such shares, bonds and other forms of securitized debt, negotiable futures contracts, options on shares or futures contracts, collective investment schemes and, any other financial products, which are traded on securities or futures exchanges within the competence of the Authorities.

#### **Article 4: Scope of Assistance**

- 4.1 The Authorities will provide each other with the fullest assistance under this Memorandum, to the extent permitted by their respective Laws and regulations, in order to comply with requests for assistance in connection with the performance of their functions and powers. Such assistance will include:
- (a) provision of information held by the Requested Authority;
  - (b) obtaining evidence and documents from persons;
  - (c) taking statements from persons.
- 4.2 This Memorandum of Understanding will be effective from the date of its signing by the Authorities.
- 4.3 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 interest of the Requested Authority;
  - (b) where criminal proceedings have already been initiated in the State of the Requested Authority based upon the same facts and against the same persons;
  - (c) where the same persons have already been finally sanctioned following the determination of the same charges by the competent Requested Authority;
  - (d) where such assistance is not permitted by the laws or regulatory requirements in force in, or applying to, Australia or Singapore;
  - (e) where the request is not in accordance with the provisions of this Memorandum of Understanding; or

- (f) where the information or assistance would be more readily obtained through other channels.
- 4.4 In considering any request for information, the Requested Authority may take into account in deciding whether to accept or decline a request :
- (a) where the request relates to a breach of laws or regulatory requirements, whether the laws or regulatory requirements have no close parallel in the country of the Requested Authority; and
  - (b) whether broadly equivalent assistance would be available from the country of the Requesting Authority.
- 4.5 Where the Requested Authority denies or opposes a request for assistance (other than on grounds that it does not possess the legal authority to provide the assistance requested) it will provide the reasons why it is not granting the assistance and the Authorities will consult on other possible means of dealing with the request.

#### **Article 5: Unsolicited Information**

- 5.1 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 this event, the terms and conditions of this Memorandum will apply if the providing Authority specifies that the information is given under this Memorandum.

#### **Article 6: Requests for Assistance**

- 6.1 Requests for assistance must be made in writing and addressed to the Requested Authority's contact person listed in Appendix A. Appendix A may be amended by written notice from either Authority without the need for re-signature of this Memorandum.
- 6.2 The request for assistance must specify the following:
- (a) a general description of the assistance, documents or information sought by the Requesting Authority including (where possible) any specific questions to be asked of witnesses or list of documents sought which would assist the Requested Authority to comply with the request;
  - (b) a general description of both the matter which is the subject of the request and the purpose for which the information is sought (including details of

the rule or law pertaining to the matter which is the subject of the request);

- (c) to whom if anyone, onward disclosure of information is likely to be necessary and the reason for such disclosure; and
- (d) the desired time period for the reply and, where appropriate, the urgency thereof.

- 6.3 In urgent circumstances, requests for assistance and replies to such requests may be transmitted by summary or emergency procedures defined by mutual arrangement between the Authorities, provided that they are confirmed in the manner prescribed in paragraphs 1 and 2 of this Article within 5 business days.
- 6.4 Under this Memorandum, a request for assistance may be made upon request of another authority provided this authority is from the State of the Requesting Authority, and the request arises from an alleged breach of Laws and regulations relating to Securities. The Authorities shall consult each other on the follow-up to such request and on the precise content of the information to be provided by the Requested Authority.

#### **Article 7: Execution of Requests**

- 7.1 Subject to Articles 2, 4 and 6, 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 rules.
- 7.2 If it appears that the Requested Authority will incur substantial costs in responding to a request for assistance under this Memorandum of Understanding, the Authorities will establish a cost-sharing arrangement before the Requested Authority continues to respond to the request for assistance.

#### **Article 8: Permissible Use of Information**

- 8.1 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 Laws and regulations specified in the request, and for any criminal, civil or administrative proceeding dealing with the violation of the provisions specified in the request.
- 8.2 Any information provided without prior request for assistance to an Authority pursuant to Article 5 shall not be used for any purposes other than those stated in the transmission letter.

- 8.3 However, 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, and provided these regulators are from the State of the Requesting Authority, it must first seek permission from the Requested Authority (unless the transmission of information has already been foreshadowed under Article 6.2(c) or Article 6.4).
- 8.4 Where the Requesting Authority believes that sharing confidential information with a third party is necessary, it must inform the Requested Authority of the other authority's interest in the information and it must provide the Requested Authority with the opportunity to oppose such use (unless the transmission of information has already been foreshadowed under Article 6.2(c) or Article 6.4).
- 8.5 If the Requested Authority agrees to the use of the information for purposes other than those stated in paragraphs 1 and 2 of this article, it may subject the utilization of the information to certain conditions. The Requested Authority may refuse such use of the information; in that case, the Authorities will, pursuant to Article 10 consult each other regarding the reasons for refusal and the circumstances under which use of the information might otherwise be allowed.

#### **Article 9: Confidentiality of Requests**

- 9.1 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.
- 9.2 In all cases, the Requesting Authority shall keep confidential, to the extent permitted by law, any information received pursuant to this Memorandum.
- 9.3 Notwithstanding 9.1 and 9.2, the confidentiality provisions of this Memorandum will not prevent the Authorities from providing information to any person specifically identified in the request for information pursuant to Article 6.2(c) or Article 6.4.
- 9.4 Where compelled by law or a court order to disclose the information received, the Requesting Authority should give prior written notification to the Requested Authority before such disclosure can be made. The Authorities will then consult on an appropriate course of action.

## **Article 10: Consultations**

- 10.1 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.
- 10.2 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.
- 10.3 The Authorities may agree on such further arrangements of a practical nature as may be necessary to facilitate the implementation of this Memorandum.
- 10.4 In any case of dispute over the interpretation of this Memorandum, the Authorities will consult each other with a view to reaching a mutually acceptable interpretation.

## **Article 11: Amendments to the Memorandum**

- 11.1 Further to consultations held pursuant to Article 10, the Authorities may agree on such amendments as may be necessary to give effect to this Memorandum.
- 11.2 If in future, there are any legislative changes which will affect the scope of this Memorandum, both parties may review the Memorandum.

## **Article 12: Publication**

- 12.1 The Authorities agree to publish this Memorandum.

## **Article 13: Termination**

- 13.1 This Memorandum will remain in effect unless terminated by any Authority upon 30 days written notice. 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 the reception of the notification.



IN WITNESS WHEREOF the Undersigned have signed this Memorandum.


Signed this 16<sup>th</sup> day of May 2000 in duplicate in Sydney.

FOR THE AUSTRALIAN  
SECURITIES AND INVESTMENTS  
COMMISSION

A handwritten signature in black ink, appearing to read 'Alan Cameron', followed by a horizontal line extending to the right.

Alan Cameron AM  
Chairman

FOR THE MONETARY  
AUTHORITY OF SINGAPORE

A handwritten signature in black ink, appearing to read 'Tharman Shanmugaratnam', written in a cursive style.

Tharman Shanmugaratnam  
Deputy Managing Director  
(Financial Supervision)

**APPENDIX A**

The Requested Authority's contact officer pursuant to Article 4 of the Memorandum is:

For the Australian Securities and  
Investments Commission

Ms Rose Webb  
Director  
Office of International Relations  
TEL: (61 2) 9911 2075

Alternate:  
Mr Mark McGinness  
Coordinator, International  
Enforcement  
Office of International Relations  
TEL: (61 2) 9911 20250

FAX: (61 2) 9911 2634

For the Monetary Authority of Singapore

: Ms YEO Lian Sim  
Assistant Managing Director  
(Capital Markets)  
Financial Supervision Group  
TEL: (65) 229-9461

Alternate:  
Mrs Mimi HO  
Director  
Securities Regulation Development  
Financial Supervision Group  
TEL: (65) 229-9228

FAX: (65) 229-9697