

**MEMORANDUM OF UNDERSTANDING ON THE EXCHANGE OF  
INFORMATION  
BETWEEN THE NETHERLANDS AUTHORITY FOR THE FINANCIAL MARKETS  
AND THE POLISH SECURITIES AND EXCHANGE COMMISSION**

*The Netherlands Authority for the Financial Markets and the Polish Securities and Exchange Commission,*

Considering the increasing internationalisation 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 the Netherlands 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;

The Netherlands Authority for the Financial Markets and the Polish Securities and Exchange Commission have thus reached the following understanding:

**Article 1 - Purpose of the Memorandum of Understanding ('MoU')**

The purpose of this MoU is to set up and implement a system for mutual assistance and exchange of information between the Authorities designated hereinafter, in order to facilitate the fulfilling of their supervisory functions in the field of financial markets.

   
14.

## Article 2 - Definitions

For the purposes of this MoU:

1. **“Authority”** means:
  - a) the Netherlands Authority for the Financial Markets; or
  - b) the Polish Securities and Exchange Commission.
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 MoU.
4. **“Laws and Regulations”** means the provisions of the laws, regulations and other regulatory requirements applicable in the Netherlands and in Poland.
5. **“Financial Instruments”** means shares, bonds and other forms of securitized debts, futures and derivative products and any other financial products traded in the respective states 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 securities and derivatives market supervised by the Authorities.
8. **“Investment Services”** means carrying out and trading transactions involving Financial Instruments on its own account and/or on behalf and for the account of third parties.
9. **“Investment Services Providers”** means investment firms, credit institutions, and any other person authorized to provide Investment Services within the laws and regulations of the Authorities.

## Article 3 - Scope of assistance

1. The Authorities will provide each other with the fullest assistance under this MoU in any of the matters falling within the competence of the Authority, to the extent permitted by their respective national laws and regulations, in order to facilitate the performance of their respective supervisory duties.
2. In so far as the request concerns information relating to specified persons and their activities or is not exchanged pursuant to the provisions of any proceedings resulting from the violation of the laws or regulations, the Requested Authority shall take all reasonable steps to provide assistance to the Requesting Authority. In case of any difficulty providing the Requesting Authority with the relevant information, the Authorities agree to consult each other .

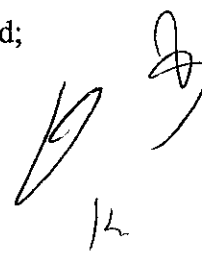


Handwritten initials and signature, possibly 'P' and 'S', with the number '14.' written below.

3. The information is exchanged pursuant to the provisions of any of the relevant national laws or regulations of the Authorities and the requirements of any relevant international agreement.
4. Assistance under this MoU 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 MoU;
  - c) where criminal proceedings have already been initiated or where final judgements have 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;
5. 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.
6. 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 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 MoU will apply if the providing Authority specifies that the information is given under this MoU.
7. This MoU constitutes a basis for cooperation between the Authorities and neither changes nor replaces the laws and regulations enforceable in the jurisdiction of Poland and the Netherlands. This MoU does not grant any rights to be executed by a third party and does not affect any other agreement or memorandum of understanding. The execution of these provisions can not 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 description of the information sought by the Requesting Authority;
  - b) a description of both the matter which is the subject of the request and the purpose for which the information is sought;
  - 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;



Handwritten signature and initials in the bottom right corner of the page.

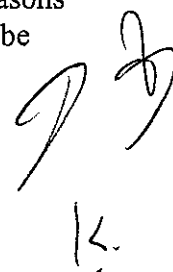
- d) if known to the Requesting Authority, a list of the persons or institutions believed by the Requesting Authority to possess the information sought or the places where such information may be obtained;
- e) in so far as the request concerns information relating to transactions in specific securities
  - a description of the securities in question as precise as possible (including e.g. the securities code),
  - the names of those firms with whose dealings in the securities the Requesting Authority is concerned,
  - the dates of which transactions in the securities which are considered relevant for the purpose of the request,
  - the names of any persons on whose behalf relevant transactions in the securities are believed or suspected to have been entered into;
- f) an indication of the urgency of the request, or the desired time period for the reply.

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

1. To the extent permitted by law, the Requested Authority shall take all reasonable steps to obtain and provide the information sought. 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 or other than for 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 MoU, 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 paragraphs 1 and 2 of this article, it might subject the use of the information 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.

Handwritten initials and a signature in the bottom right corner of the page.

### **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 MoU, the contents of such requests, and any other matters arising during the implementation of this MoU, 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 MoU to the same extent as such 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 MoU, and to consult each other on a periodic basis and whenever necessary.
2. The Authorities will keep the operation of this MoU 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, for the achievement of this MoU, 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 MoU.
4. In any case of dispute over the interpretation of this MoU, 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 costs incurred, the Requested Authority may require the Requesting Authority to make a contribution to costs.

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

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

Handwritten signature and initials in the bottom right corner of the page.

**Article 11 - Publication**

The Authorities agree to publish this MoU.

**Article 12 - Effective Date**

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

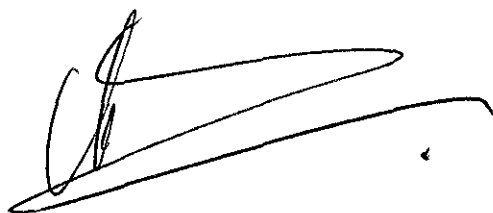
**Article 13 - Termination**

This MoU 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 each other Authority. Where the Requested Authority gives such notice, this MoU 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 Netherlands Authority for the Financial Markets and the Polish Securities and Exchange Commission have signed this MoU.

DONE in \_\_\_\_\_, on \_\_\_\_\_ 2002, in four versions, two in Polish and two in English.

FOR THE NETHERLANDS AUTHORITY  
FOR THE FINANCIAL MARKETS

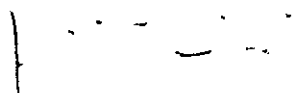


ARTHUR W. H. DOCTERS VAN LEEUWEN  
CHAIRMAN

FOR THE POLISH SECURITIES AND  
EXCHANGE COMMISSION



JACEK SOCHA  
CHAIRMAN



JACOB W.F. KAPTEIN  
BOARD MEMBER



**APPENDIX A**

The Requested Authority's contact person pursuant to Article 4 of the MoU is:

For the Netherlands Authority for the  
Financial Markets:

Paul Mulder  
Head Legal Affairs Division

Singel 542  
P.O. Box 11723  
1001 GS Amsterdam  
The Netherlands

TEL: 00-31-20-55 35 232  
FAX: 00-31-20-62 07 466

For the Polish Securities and Exchange  
Commission:

Mirosław Kachniewski  
Secretary of the Polish Securities  
and Exchange Commission

Pl. Powstańców Warszawy 1  
00-950 Warszawa  
Poland

TEL: (48 22) 827 47 94  
FAX: (48 22) 826 81 00

