

REPUBLIQUE FRANCAISE

MALAYSIA

COMMISSION DES OPERATIONS  
DE BOURSE

THE SECURITIES COMMISSION

### MEMORANDUM OF UNDERSTANDING

The *Commission des opérations de bourse* of France and the Securities Commission of Malaysia;


considering, in light of increasing internationalisation 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 France and in Malaysia;

have reached the following agreement.:

#### Article 1 - Purpose of the Memorandum

1. This Memorandum of Understanding sets forth a statement of intent of the Authorities to establish a framework for mutual assistance and to facilitate the exchange of information between the Authorities to enforce or ensure compliance with their respective securities and futures laws or regulatory requirements, including in particular:
  - a) Assisting in the discovery of and taking action against insider dealing, market manipulation and other fraudulent practices regarding securities;
  - 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;
  - d) promoting and securing the fitness and properness of persons registered with the respective Authorities, and monitoring their activities;



- e) monitoring compliance by issuers of and offerors for securities, and directors, officers and shareholders of all companies listed or applying for listing, on the respective securities markets pertaining to the Authorities, with their obligations under any relevant laws and regulations, including takeovers, and any obligation to make full, accurate and immediate disclosure of information relevant to investors.
2. Each Authority agrees that this Memorandum represents the preferred way of obtaining confidential information necessary to ensure compliance with or enforcement of the laws and regulations, in the case of France, the requesting Authority being the COB, and in the case of Malaysia, the requesting Authority being the SC. 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.
3. This Memorandum does not affect the ability of the Authorities to exchange non confidential information.
4. The purpose of this Memorandum is for increased investor protection and further promotion of the integrity of the securities, futures and options markets by providing a framework for co-operation, increased mutual understanding, exchange of information and investigative assistance, to the extent permitted by the laws and practices of the Authorities

Notwithstanding any other provisions of this Memorandum, the Authorities will use their best endeavours to meet the terms of neither this Memorandum of Understanding nor any of its provisions imposes any legally binding obligation on the Authorities. This Memorandum also does not modify or supersede any domestic laws or regulatory requirements in force in or applying to the Authorities, nor will it affect any arrangement made or to be made under other Memoranda of Understanding.

## Article 2 - Definitions

For the purpose of this Memorandum:

1. "Authority" means:
  - a) the *Commission des opérations de bourse* (COB) of France; or
  - b) the Securities Commission (SC) of Malaysia
2. "requested Authority" means the Authority to whom a request under this Memorandum is made;
3. "requesting Authority" means an Authority making a request under this Memorandum;
4. "issuer" means a person who issues or proposes to issue any security;
5. "laws and regulations" means the provisions of the laws, regulations and other regulatory requirements applicable in France and in Malaysia;
6. "person" means a natural person, legal entity, partnership or unincorporated association;



7. "securities" means securities, negotiable futures contracts, other derivative products, options, collective investment schemes and any financial products within the competence 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 laws and regulations, in order to comply with requests for assistance in connection with investigations to determine whether there has been any violation of the securities laws and regulations and other requests for information to facilitate the performance of their respective functions. For these purposes, the requested Authority will provide access to the information it holds to the requesting Authority; and when possessing the legal authority to do so, to exercise such powers and take such steps as necessary to obtain all useful information from the relevant sources to comply with the request.
2. 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 in the case of France, the requested authority being the COB, and in the case of Malaysia, the requested authority being the SC;
  - b) where criminal proceedings have already been initiated in France, the requested authority being the COB or in Malaysia, the requested authority being the SC, 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 Authorities, in France, the requested Authority being the COB, or in Malaysia the requested Authority being the SC.
  - d) where the provisions of assistance would violate the national or public interest or the domestic laws and regulations of the requested Authority.
  - e) where the request is not made in accordance with the provisions of this Memorandum.

The denial of assistance does not undermine the right of the Authorities to consult each other.

3. Where 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.
4. 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 specify that the information is given under this Memorandum.

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#### Article 4 - Requests for Assistance

1. Requests for assistance must be made in writing and addressed to the requested Authority's contact officer listed in Appendix A. Appendix A may be amended by written notice from either Authority without the need for re-signature of this Memorandum.
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 (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.
3. In the event of urgency, 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.
4. Under this Memorandum, where a request for assistance is made by the requesting Authority upon request of another authority, in the case of France the requesting Authority being the COB and in the case of Malaysia, the requesting Authority being the SC, 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.
5. Each request will be assessed on a case by case basis by the requested Authority to determine whether assistance can be provided under the terms of this Memorandum of Understanding. In any case where the request cannot be accepted completely, the requested Authority will consider whether there may be other assistance which can be given, to the extent permitted by the laws of the requested Authority.

#### Article 5 - Execution of Requests

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 applicable rules of France when the requested Authority is the COB or of Malaysia when the requested Authority is the SC.

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#### 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 laws and regulations specified in the request, and for any criminal, civil, administrative or disciplinary proceeding dealing with the violation of the provisions 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. The Authority which has received the information will inform the other Authority prior to the use of the information furnished for any administrative or disciplinary proceeding.
3. However, if the requesting Authority wishes to use the information provided for any other purpose than those stated in the initial request, 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 the purposes other than those stated in paragraphs 1 and 2 of the 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 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.
4. Any assistance or information will be provided by an Authority only for the purposes of assisting the other Authority in the performance of its regulatory functions. Any assistance or information provided under this Memorandum of Understanding should be used by the requesting Authority only for:
  - a) the purpose of performing its regulatory functions;
  - b) the purposes stated in the request including enduring compliance with or enforcement of the laws or regulations of the requesting Authority specified in the request, by initiating or assisting in criminal prosecution arising out of the breach of such rule or law; or
  - c) conducting or assisting in civil proceedings brought by the Authorities or other law enforcement or regulatory bodies within the territory of the requesting Authority in taking regulatory action or imposing regulatory requirements within the scope and purpose stated in Article 1 above arising out of the breach of the laws and regulations specified in the request.

#### Article 7 - Confidentiality of Requests

1. Subject to Article 6, 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 information would be kept confidential in France where the COB has furnished the information or in Malaysia where the SC has furnished the information.

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### 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.
3. The Authorities may agree such further arrangements of a practical nature as may be necessary to facilitate the implementation of this Memorandum.
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 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 Memorandum

Further to consultations held pursuant to Article 8, the Authorities may agree on such amendments as may be necessary to give effect to this Memorandum.

### Article 11 - Publication

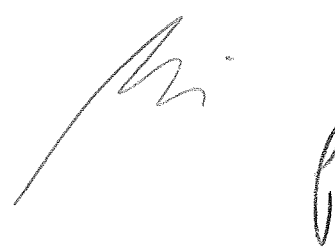
In compliance with the domestic legal requirements, the Authorities may publish this Memorandum.

### Article 12 - Effective Date

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

### Article 13 - Termination

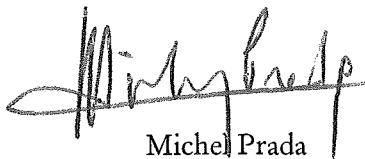
This Memorandum will remain in effect unless terminated by any Authority upon 30 day written notice. Where the requested Authority gives such notice, this Memorandum will continue to have effect with respect to all requests for assistance made before the date of the reception of the notification.

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IN WITNESS WHEREOF the Undersigned have signed this Memorandum.

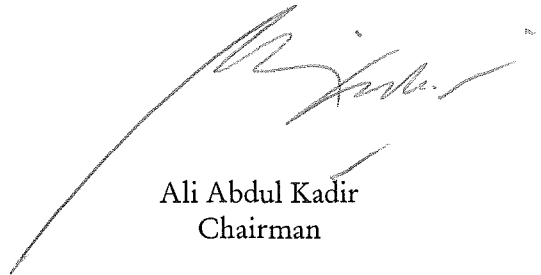
DONE in PARIS, in quadruplicate, this Monday, September 13, 1999, two in French, two in English, each text being equally authoritative.

For the Commission  
des opérations de bourse



Michel Prada  
Chairman

For the *Securities Commission*



Ali Abdul Kadir  
Chairman

APPENDIX A

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

For the *Commission des opérations de bourse*:

The Head of the Enforcement Division

Tel: (33 1) 53 45 63 76

Fax: (33 1) 53 45 63 70

For the Securities Commission of Malaysia:

The General Manager of the Corporate  
Affairs Department

Tel: (60 3) 654 85 10

Fax: (60 3) 651 50 78

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