

LEGL

MEMORANDUM OF UNDERSTANDING ON EXCHANGE OF INFORMATION BETWEEN THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION AND THE UNITED KINGDOM DEPARTMENT OF TRADE AND INDUSTRY IN MATTERS RELATING TO SECURITIES AND BETWEEN THE UNITED STATES COMMODITY FUTURES TRADING COMMISSION AND THE UNITED KINGDOM DEPARTMENT OF TRADE AND INDUSTRY IN MATTERS RELATING TO FUTURES

The United States Securities and Exchange Commission, Commodity Futures Trading Commission, and the United Kingdom Department of Trade and Industry, recognizing the increasing international activity in the securities, futures and investments markets and the corresponding need for mutual cooperation between the relevant national authorities, have reached the following understanding:

- 1 For purposes of this Memorandum,
 - (a) "Authorities" means
 - (i) the Department of Trade and Industry ("DTI");
 - (ii) the Securities and Exchange Commission ("SEC") and the Commodity Futures Trading Commission ("CFTC") acting with respect to their respective areas of jurisdiction (each being an "Authority" in respect thereof).
 - (b) "Investment Businesses" means investment businesses, investment companies, other collective investment undertakings and their equivalents, investment banks, merchant banks, brokers, dealers, jobbers, investment advisers and investor advisory services.
 - (c) "Securities Processing Businesses" means clearing corporations or securities transfer agents.
 - (d) "Futures Businesses" means commodity trading advisors, commodity pool operators, futures commission merchants, introducing brokers, associated persons and floor brokers, clearing corporations, futures and options brokers and dealers.
 - (e) "person" means a natural person, unincorporated Association, or body corporate, government, or political subdivision, agency, or instrumentality of a government.
 - (f) "requested Authority" means an Authority to whom a request under this Memorandum is addressed.
 - (g) "requesting Authority" means an Authority making a request under this Memorandum.
 - (h) "legal rule or requirement" means:
 - (i) for securities, the statutes, rules, and requirements of the United States and the United Kingdom:
 - (A) relating to the prevention of insider dealing in, misrepresentation in the course of dealing in, and market manipulation in, securities listed on an investment exchange or

a national securities exchange, or quoted in an automated inter-dealer quotation system, or traded over-the-counter, where the exchange, system, or over-the-counter market is situated within, and a material part of any of the relevant transactions in securities are effected within, the territory of the requesting Authority;

(B) directed at the conduct of (1) Investment or Securities Processing Businesses located within the territory of the requesting Authority; or (2) Investment or Securities Processing Businesses located outside the territory of the requesting Authority which conduct an Investment or Securities Processing Business within such territory; or

(C) relating to the financial and other qualifications of those engaged in or in control of Investment or Securities Processing Businesses operating in the territory of the requesting Authority.

(ii) for futures, the statutes, rules, and requirements of the United States and the United Kingdom:

(A) relating to the prevention of misrepresentation or market manipulation with respect to any futures or options contract that is made, to be made, or that is to be traded or effected on an exchange, market, or board of trade, where such exchange, market or board of trade is situated within the territory of the requesting Authority;

(B) directed at the conduct of (1) Futures Businesses located within the territory of the requesting Authority; or (2) Futures Businesses located outside the territory of the requesting Authority that conduct a Futures Business within such territory; or

(C) relating to the financial and other qualifications of those engaged in or in control of Futures Businesses operating in the territory of the requesting Authority.

Part I: General Principles

2 This Memorandum sets forth the basis upon which the SEC and the DTI and the CFTC and the DTI reciprocally propose to exchange information for the purpose of facilitating the performance of their respective functions regarding the legal rules or requirements of the United States and the United Kingdom.

3 This Memorandum sets forth a statement of intent of the Authorities regarding the exchange of information between the Authorities. Accordingly, the provisions of this Memorandum shall not give rise to the right on the part of any private party, directly or indirectly, to obtain, suppress or exclude any evidence or to challenge the execution of a request for assistance under this Memorandum.

4 In response to requests which satisfy the terms of Part II of this Memorandum and subject to the conditions set out in Part III, each Authority

shall assist the other by providing to it any information that is either already in its hands or that it can by its best efforts obtain in order to enable the other to secure compliance with the relevant legal rules and requirements. The Authorities shall accordingly provide each other assistance in obtaining information which is available within their territory for the purpose of securing compliance with such legal rules and requirements.

5 The Authorities recognize the need and desirability of exchanging information to assist each other in securing compliance with their respective legal rules and requirements. However, assistance may be denied on grounds of public interest determined in cases where the requested Authority is the DTI by the Secretary of State and where the requested Authority is either the SEC or CFTC by its respective Commission, after consultation with relevant officials within the U.S. Government.

6 This Memorandum does not extend to information held by the DTI solely by virtue of powers and functions that relate to matters other than securities, investments, futures, or company law.

Part II: Requests for Information

7 Any request for information made under this Memorandum shall satisfy the following requirements:

- (a) wherever possible it shall be in writing but in cases of urgency it may be oral, but confirmed in writing within 10 days;
- (b) it shall clearly specify the following:
 - (i) the information requested;
 - (ii) the general purpose for which the information is sought, indicating in particular the legal rule or requirement pertaining to the matter which is the subject of the request;
 - (iii) the grounds on which breach of the legal rule or requirement is suspected. However, where the legal rule or requirement in question is that a person should be of good repute and competent ("fit and proper" or not "statutorily disqualified") if he is to set up or carry on an Investment, Securities Processing, or Futures Business, it is sufficient compliance with this subparagraph to specify that information is sought for that purpose;
 - (iv) the identity of the person whose conduct causes concern. However, where the relevant legal rule or requirement falls within paragraph 1(h)(i)(A) or 1(h)(ii)(A) above it is sufficient compliance with this subparagraph to specify that information is sought concerning the grounds specified in order to identify the person(s) against whom proceedings or action is to be, or may be, taken; and
 - (v) where it is apparent to the requesting Authority that another person may obtain the information for a purpose other than securing compliance with or enforcing the legal rule or requirement specified under subparagraph (ii) above in respect of the person(s) (if any) specified under subparagraph (iv) above, to the extent permitted by

the law of the requesting Authority, the particulars of that person and his interest;

(c) it should be addressed to one of the requested Authority's contact officers listed in Annex I, or his nominee pursuant to written notice to the requesting Authority; and

(d) the requested information must be reasonably relevant to securing compliance with the legal rule or requirement specified in the request.

In any case where a requested Authority is not satisfied that a request fully complies with the requirements of this paragraph it may require the Director of the Division of Enforcement of the SEC or CFIC or the Under Secretary, Financial Services Division, DTI, where applicable, to certify that the request is cognizable under the terms of this Memorandum. A requested Authority may not challenge such a certification except on substantial grounds which shall be fully stated in writing.

Part III. Conditions

8 Information received shall be used solely for the purpose of:

(a) securing, through enquiries, investigations or litigation, compliance with or enforcement of the legal rule or requirement specified in the request, provided that the information may be used to secure compliance with or enforcement of other applicable legal rules or requirements in a proceeding in which a violation of the legal rule or requirement specified in the request is alleged;

(b) securing compliance with or enforcement of a legal rule or requirement that was not specified in the request in a proceeding in which a violation of the legal rule or requirement specified in the request is not alleged, if prior to such use, the requesting Authority informs the requested Authority of its intention to use the information for such purpose and the requested Authority does not object; or

(c) conducting a civil or administrative enforcement proceeding, assisting in a criminal prosecution, or conducting any investigation related thereto for any general charge applicable to the violation of the legal rule or requirement identified in the request.

9 The requesting Authority shall keep confidential any information provided under this Memorandum subject to the terms of this paragraph, unless it is disclosed in furtherance of the purpose for which it was requested under paragraph 8 above:

(a) except as contemplated by paragraph 8 above, the requesting Authority shall not offer the information to, and shall use its best efforts to ensure that it is not obtained by, any other person. Unless otherwise agreed, in the event that such information is obtained by any public body, the requesting Authority shall use its best efforts to ensure that it will not be used by that body in any way that involves its disclosure to any other person;

(b) if the requesting Authority becomes aware that the information has

been or is likely to be disclosed otherwise than as contemplated by paragraph 8 above, it shall inform the requested Authority of the situation; and

(c) as soon as the requesting Authority has terminated the matter for which assistance has been requested under this Memorandum, it shall return to the requested Authority, to the extent permitted by the law of the requesting Authority, all documents and copies thereof not already disclosed in proceedings referred to in paragraph 8 above, and other material disclosing the content of such documents, other than material which is generated as part of the deliberative or internal analytical process of the requesting Authority, which may be retained.

10 Any document or other material provided by an Authority in response to a request under this Memorandum and any other material disclosing its content, other than material which is generated as part of the deliberative or internal analytical process of the requesting Authority, shall not become the property of the requesting Authority, and must be redelivered to the requested Authority without delay on demand to the extent permitted by the law of the requesting Authority; provided that such demand may be made only if the requested Authority has reason to believe that the information has been or is likely to be disclosed or used otherwise than as contemplated by paragraph 8 above.

Part IV: Other Means of Obtaining Information

11 The Authorities have various powers to obtain information in the exercise of regulatory functions which are within the scope of this Memorandum. These powers do not extend to the obtaining of information on a compulsory basis solely for the purpose of securing compliance with or prosecuting breaches of foreign laws. However, if, in the exercise of its powers, any Authority obtains information which it recognizes as clearly giving rise to a suspicion of a breach of any legal rule or requirement of any other Authority then it will to the extent permitted by law offer to provide such information to such Authority for any purpose, and subject to compliance by the other with any conditions, which would have been applicable had a request been made.

12 Nothing in this Memorandum prevents an Authority ("the investigating Authority") from pursuing any enquiries within or seeking any information from the territory of the other Authority (the "host Authority") otherwise than under this Memorandum but for a purpose within its scope provided that:

(a) any such enquiries and the seeking of any such information shall be conducted with moderation and restraint; and

(b) unless the information is sought from a person within the territory of the investigating Authority who has possession, custody or control of it, that Authority will only commence such enquiries or seek such information if:

(i) it has first made a request of the host Authority for the information sought in accordance with the provisions of this Memorandum ; and

(ii) the host Authority has failed after reasonable notice to satisfy such request;

provided, however, that in a case of urgency where it is not possible or reasonably practicable to make a request, the investigating Authority shall give notice to and consult with the host Authority to the extent practicable; and

(c) an investigating Authority which pursues enquiries or seeks information under this paragraph shall enter into consultations with the host Authority about the matter on request.

This paragraph shall have no effect on matters that are outside the scope of the Memorandum.

Part V: Costs

13 When the costs of providing or obtaining information under this Memorandum are substantial, the requested Authority may require the requesting Authority to undertake to pay those costs.

Part VI: Consultations, Confidentiality of Requests and Waiver

14 The Authorities will keep the operation of this Memorandum under continuous review and consult with a view to improving its operation and resolving any matters. In particular, any Authority will consult another Authority upon request in the event of:

(a) a refusal by one Authority:

(i) to comply with a request for information on grounds that such compliance would prejudice the public interest of the United Kingdom or the United States; or

(ii) to permit the conduct of enquiries in accordance with paragraph 12;

(b) a change in market or business conditions or in the legislation governing the matters mentioned in paragraph 1(h) above or any other difficulty arising which makes it necessary to amend or extend this Memorandum in order to achieve its purposes; or

(c) an assertion by the requested Authority that the provision of information would be so burdensome as to disrupt the proper performance of its functions.

15 Each Authority will keep confidential to the extent permitted by law any request for information made under this Memorandum and any matters arising in the course of its operation, including consultation under this part, unless such confidentiality is waived by the other Authority. This paragraph does not apply to general matters of proper public interest relating to the operation of this Memorandum.

16 Any of the conditions of this Memorandum may be relaxed or waived by mutual agreement.

Part VII: Termination and Future Agreements

17 This Memorandum is an interim understanding and shall terminate upon

entry into force of a treaty governing matters relating to the securities and futures laws of the United States and the United Kingdom. The Authorities shall use their best efforts to ensure that negotiations are entered into concerning such a treaty between the United States and the United Kingdom within 12 months of the date of signature of this Memorandum.

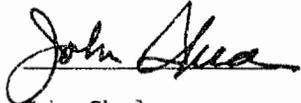
18 Except as contemplated in paragraph 17 above, this Memorandum shall continue to have effect unless terminated by any one of the SEC, CFTC or DTI by giving 30 days advance written notice to the other Authorities that the understandings set out herein are no longer to have effect. Such notice may in particular be given in consequence of a change in the laws or regulations applicable to any matter governed by this Memorandum which is regarded by an Authority as material and in the absence of an agreed amendment to take account of the change. Termination by either the SEC or the CFTC shall take place only with respect to areas of the Memorandum regarding that agency's area of competence and the arrangements relating thereto. Termination by the DTI may take effect with respect to the areas within the competence of the SEC and/or the CFTC and the arrangements relating thereto and shall be so specified.

SIGNED THIS 23rd DAY OF SEPTEMBER 1986

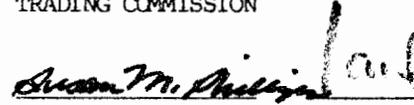
SECURITIES AND
EXCHANGE COMMISSION

COMMODITY FUTURES
TRADING COMMISSION

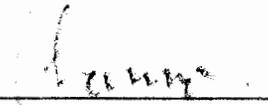
DEPARTMENT OF TRADE AND INDUSTRY



John Shad
Chairman



Susan M Phillips
Chairman



The Right Honourable Paul Channon
Secretary of State for Trade
and Industry

ANNEX I

CONTACT OFFICERS

DTI: Under Secretary, Financial Services Division
Department of Trade and Industry
10-18 Victoria Street
London SW1H 0NN
United Kingdom

SEC: Director, Division of Enforcement
Securities and Exchange Commission
450 5th St. N.W.
Washington, D.C. 20549

CFIC: Director, Division of Enforcement
Commodity Futures Trading Commission
2033 K St. N.W.
Washington, D.C. 20581