

KENYA, REPUBLIC OF *

肯亞共和國*

MEMORANDUM OF UNDERSTANDING
ON MUTUAL ASSISTANCE AND
EXCHANGE OF INFORMATION
BETWEEN THE SECURITIES AND
EXCHANGE COMMISSION IN TAIPEI
AND THE CAPITAL MARKETS
AUTHORITY IN NAIROBI

台北證券管理委員會與奈
洛比資本市場管理局相互
協助及資訊交換瞭解
備忘錄

Signed on September 17, 1996

Entered into force on September 17, 1996

八十五年九月十七日簽訂

八十五年九月十七日生效

Part I : The Parties and Purpose

第一條：締約雙方及目的

1. The Securities and Exchange Commission whose address is 12th Floor, No. 3, Nan Hai Road, Taipei, Taiwan, the Republic of China and The Capital Markets Authority whose address is Post Office Box Number 74800, Nairobi in the Republic of Kenya (hereinafter together referred to as "the Signatories" and individually as "the Signatory") recognize the increasing international activities in the securities and futures markets of Kenya and Taiwan, and the corresponding need for mutual cooperation between the Signatories.
2. The Signatories believe that, as international participation in securities and futures markets continues to grow, it has become increasingly important to establish arrangements for the Signatories to exchange supervisory, surveillance, investigatory and awareness information in order to assist each other in securing compliance with the laws, regulations and rules of Kenya and Taiwan relating to securities and futures markets, to the extent permitted by the law of each country. This should serve to improve the protection of investors, to help to strengthen the adequate supervision and effective regulation of the securities and futures markets, to enhance the supervision of cross-border

- 一、台北證券管理委員會，其地址為中華民國台灣省台北市南海路三號十二樓與奈洛比資本市場管理局，其通訊處為肯亞共和國郵政信箱七四八〇〇號（以下共同簡稱為締約雙方，分別則簡稱締約一方）均體認在台灣及肯亞證券暨期貨市場間國際活動之成長，及互相合作之必要。
- 二、締約雙方均確信：證券暨期貨市場經由國際參與而繼續增長，使得締約雙方在法律許可下，建立架構以相互交換監督、市場監視、調查與知悉之資訊，俾助兩國證券暨期貨市場之法律、規章及行政命令得以確實遵行，變成日益重要。此一架構旨在改善對投資人之保護，俾助強化充分且有效的證券暨期貨市場業務管理，增強證券暨期貨市場跨國交易監管，以及防止舞弊及其他禁止業務行為，俾以保障證券暨期

transactions in securities and futures markets products, and to prevent fraudulent and other prohibited practices, thus protecting the integrity of the securities and futures markets.

Part II: Request for Information

3. The Signatories agree to consider carefully each request for information from each other relating to supervision, surveillance, and investigation as described in paragraph 2 above.
4. Any request for information made under this memorandum will satisfy the following requirements:
 - (a) Wherever possible it will be in writing but in case of urgency it may be oral, and confirmed in writing through facsimile within forty eight(48) hours.
 - (b) it will clearly specify the following
 - (i) the information requested;
 - (ii) the general purpose for which the information is sought;
 - (iii) a description of the conduct;
 - (iv) the identity of the person, if known, whose conduct causes concern.
5. In order to facilitate the timely processing of requests, the Signatories agree to appoint contact persons as designated in the attached Appendix.

Part III: Permissible Uses and Confidentiality

6. Information received will be used solely for the purpose of:

貨市場之健全。

第二條：索取資訊之請求

- 三、締約雙方同意審慎考慮相互提出前項有關監督、市場監視與調查之資訊之請求。
- 四、任何依據本備忘錄提出索取資訊之請求，須符合以下條件：
 - A、須以書面方式提出，但遇有緊急情況，得先以口頭方式提出，並於四十八小時內以書面電傳方式確認。
 - B、須明確說明以下各點：
 - a 索取資訊之內容；
 - b. 索取該項資訊之目的；
 - c. 導致索取資訊之行為之指述；
 - d. 導致索取資訊之相關人之身分。
- 五、為便及時處理此等請求，締約雙方同意指派附件所列人員為聯絡人。

第三條：資訊之使用及保密

- 六、索取之資訊祇得供以下之用

途：

- (a) securing, through enquiries, investigations or litigation, compliance with or enforcement of the requirements 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 proceedings in which a violation of the requirement specified in the request is alleged;
- (b) securing compliance with or enforcement of a requirement that was not specified in the request in proceedings in which a violation of the requirement specified in the request is not alleged, if prior to such use, the requesting Signatory informs the requested Signatory of its intention to use the information for such purposes and the requested Signatory does not object; or
- (c) conducting civil or administrative enforcement proceedings, assisting in a criminal prosecution, or conducting any investigation related thereto for any general charge applicable to the violation of the requirement identified in the request.
7. Each Signatory will keep confidential to the extent permitted by law any request for information made under this Memorandum and any matter arising in the course of its operation, including consultation under this Memorandum, unless:
- (a) Such disclosure is absolutely necessary to carry out the request; or
- (b) the other Signatory waives such confidentiality.
- 8 A requesting Signatory may specify that if the
- A、索取之資訊若係為確保請求事項有關之違法行為在追訴程序中依適用之法規，經由偵訊、調查或訴訟，得以確保請求事項所列法規之遵守或執行。
- B、如果在索求資訊使用前，請求一方通知被請求他方有意使用該資訊作特殊用途，而被請求之他方並未反對者，得使用該資訊作為確保遵守或執行未在請求事項中所列法規之遵守或執行。
- C、進行民事或行政執行程序，協助刑事訴訟，或進行有關請求事項所述違反行為之調查。
- 七、除非有下列情形，各締約者在法律許可範圍內，應對依據本備忘錄索取之資訊及因使用資訊過程發生之事宜，包括依本備忘錄進行之諮商保守秘密。
- A、為執行請求事宜所必須披露者；或
- B、締約之他方拋棄該保密要求。
- 八、請求提供資訊之一方，得敘明

requested Signatory considered such disclosure to be absolutely necessary then the Signatories will consult before such disclosure is made.

This paragraph does not apply to general matters of proper public interest relating to the operation of this Memorandum.

Part IV: Consultation and Attachments

9. This Memorandum represents an important step towards improving co-operation between the Signatories in the supervision of their respective markets. The Signatories look forward to a productive relationship, and agree in principle to negotiate in good faith additional measures relating to the exchange of information should such measures prove necessary or appropriate.
10. The Signatories agree without any obligation to facilitate the better understanding of each other's markets through attachment of personnel at the discretion of the requested Signatory and at the cost of the requesting Signatory.

Part V: Duration

11. This Memorandum shall become effective on the date of signature, and continue to have effect unless terminated by either Signatory giving to the other thirty(30) days advance written notice that the understanding set out herein are no longer to have effect.

IN WITNESS WHEREOF the Undersigned, being duly authorized, have signed this Memorandum.

Done in Montreal on the 17th day of September 1996 in duplicate in the Chinese and English languages, both text being equally authentic.

如被請求之一方認為披露之資訊確屬必要者，締約雙方得經由諮商以決定是否披露資訊。

該段內容對有關本備忘錄之執行，涉及適當公眾利益之一般性事務不適用之。

第四條：諮商與聯繫

- 九、本備忘錄代表締約雙方有關證券暨期貨市場之加強合作管理已向前邁進重要一步。締約雙方期望建立兩國有建設性的未來關係，並原則同意竭誠協商有關資訊交換所需或妥適的其他措施。
- 十、締約雙方同意在無義務前提下，請求一方負擔費用，由被請求他方委派聯繫之人員，以增加雙方市場之瞭解。

第五條：效期

- 十一、本備忘錄自雙方簽署之日起生效，並在締約一方以三十天前之書面通知終止本備忘錄前繼續有效。

為此，締約雙方爰簽字於本備忘錄，以昭信守。

公曆一九九六年九月十七日在蒙特婁簽訂，本備忘錄以中、英文各繕兩份，兩文字約本同一作準。

For the Securities and Exchange
Commission in Taipei
[Signed]
Daung-yen Lu
Chairman

台北證券管理委員會

主任委員
呂東英〔簽字〕

For the Capital Markets Authority
in Nairobi
[Signed]
Denis D. Afande
Chief Executive

奈洛比資本市場管理局

主席
丹尼斯·阿方德〔簽字〕

Appendix Contact Points

附錄 聯絡人

* The Securities and Exchange Commission in Taipei:

台北證券管理委員會

Division of International Affairs
Securities and Exchange Commission
Ministry of Finance
12th Floor, 3, Nan-Hai Road
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R.O.C.

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三九四一八二四九

* The Capital Markets Authority in Nairobi:

奈洛比資本市場管理局

Legal Affairs Manager/Authority Secretary
The Capital Markets Authority

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再保廣場
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傳真號碼：(二五四——二)
二一六六八一