

BRAZIL, FEDERATIVE REPUBLIC OF*
MEMORANDUM OF UNDERSTANDING
BETWEEN THE SECURITIES AND
FUTURES COMMISSION (IN TAIPEI)
AND THE COMISSAO DE VALORES
MOBILIARIOS (IN RIO DE JANEIRO)

Signed on November 7, 1997
Entered into force on November 7, 1997

1. INTRODUCTION

The Securities and Futures Commission in Taipei ("SFC") and the Comissão de Valores Mobiliários in Rio de Janeiro ("CVM") (hereafter referred to as "the Authorities"), recognizing the increasingly international activity between the financial markets and financial services sectors of Taiwan and Brazil and the corresponding need to establish and foster cooperation between the authorities responsible for regulating their respective financial markets and services for the protection of investors and preservation of market integrity, have reached the following understanding.

2. FUNCTIONS OF EACH AUTHORITY

(a) The Securities and Futures Commission

The functions of the SFC are to regulate the issuance or trading of securities, futures, and options contracts, as well as to assist economic development and provide investor protection. These include approving, regulating, and supervising the listing application, public offering, issuance, and trading of securities; approving, regulating, and supervising the trading of futures and options contracts; administering and supervising the securities in investment trust enterprises, securities financing business, securities investment consulting business, securities central depository business, securities and futures intermediaries and their self-regulatory organizations; and regulating securities and futures related business.

巴西聯邦共和國*

台北證券暨期貨管理委員會與
里約熱內盧證券管理委員會資
訊交換瞭解備忘錄 (中譯本)

八十六年十一月七日簽訂
八十六年十一月七日生效

一、引言

鑑於台灣與巴西之金融市場及金融服務部門間關係日益密切，實有必要建立及促進兩地金融市場監督機構之合作，以保障投資者及維護市場穩健操作，台北證券暨期貨管理委員會（以下得簡稱SFC）與里約熱內盧證券管理委員會（以下得簡稱CVM）（以下共同簡稱為雙方主管機關），就以下各方面達成共識。

二、雙方職權

(一) 台北證券暨期貨管理委員會

SFC係負責監督證券、期貨及選擇權之發行或交易，並促進經濟發展及保障投資者。其掌理之事項包括證券上市、募集、發行與交易之核定暨其監督管理事項；期貨及選擇權契約之核定及交易管理、監督事項；證券投資信託事業、證券金融事業、證券投資顧問事業、證券集中保管事業、證券商、期貨商及自律組織之核准及管理監督事項；證券、期貨相關事業從業人員之管理監督事項。

(b) Comissão de Valores Mobiliários

The CVM is the federal authority responsible for regulation of the corporate securities market. Its functions include registration of companies open to public subscription; registration of public issues; registration of portfolio administrators; authorizing establishment of stock exchanges and brokerage houses and Over-the-Counter dealers; suspending or canceling registration accreditations or permits; suspending the issue, distribution or trading of a particular stock, regulating registration of companies for the purpose of trading their securities on the floor of the stock exchanges or Over-the-Counter; monitoring disclosure of information on the performance of companies and relevant facts that are of interest to the market; specifying disclosure mechanism; specifying format for the presentation of the information; delisting a security or suspending trading on the exchanges; providing guidance to investors and receiving their complaints and suggestions; requiring the participants of the market and other government agencies to supply information or explanations; and penalizing, through administrative investigations, any illegal acts or unequitable practices committed by officers or shareholders of publicly held companies, brokers or any other persons participating in the market.

3. SCOPE

Through the machinery set up by this Memorandum, the Authorities hereby agree to promote mutual assistance and the exchange of information so that the Authorities may effectively perform their respective duties according to law.

Under the foregoing general theme, the scope of this Memorandum will include the following:

- a) supervising and monitoring the securities and futures markets, their clearing and settlement activities, ensuring compliance with the relevant laws and regulatory requirements;

(二) 里約熱內盧證券管理委員會

CVM 為負責管理全國證券市場之中央主管機關，其掌管之事項包括：公開募資、公開發行及投資組合管理者之註冊；證券交易所、經紀商、店頭市場自營商設置之核准；註冊證明文件及許可證照之暫停或撤銷；特殊股票發行、配股或交易之暫停；對公司於交易所或店頭市場買賣其股票註冊之規範；監督公司對其經營績效及市場獲利相關資訊之揭露；設定資訊揭露機制；設定資訊報告之格式；飭令證券下市或停止其交易；提供投資者指引及接受其控訴案件與建議；要求各市場參予者與其他政府單位提供資訊或解釋；經由行政調查，懲戒因進行違法行為或不公正活動之公開發行公司或經紀商之高級管理人或股東，及其他任何市場參與者。

三、適用範圍

雙方同意透過本備忘錄所確立的機制，促進相互合作及資訊交流，以便雙方有效地根據各自法律行使其職權。依據上述宗旨，本備忘錄之適用範圍包括就以下各方面進行之相互協助及資訊交流：

- (一) 管理與監視證券及期貨市場暨其清算與交割行為，確保上述活動符合相關法律規範。

- b) enforcement of the laws and regulatory requirements relating to dealing in, arranging deals in, managing and advising on securities, futures contracts, and other investment products;
- c) promoting and securing the fitness and properness of dealers, investment advisers, and other financial market practitioners, promoting high standards of fair dealing and integrity in their conduct of business;
- d) enforcement of the laws and regulatory requirements relating to insider dealing, market manipulation, and other fraudulent practices in relation to listed companies, securities, futures contracts, and other investment products;
- e) ensuring compliance by issuers of securities, and directors, officers, shareholders and professional advisers of all companies listed on the securities market of either Taiwan or Brazil, with any duties under any relevant laws and regulatory requirements to make full, accurate and immediate disclosure of information relevant to investors;
- f) enforcement of the laws and regulatory requirements relating to takeovers and mergers and share repurchases;
- g) the disclosure of interest in the securities of companies;
- h) breaches of companies legislation; and
- i) any other matters agreed upon by both Authorities, to the extent permitted by the applicable laws and practices.
- (二) 執行有關證券、期貨契約與其他投資工具之交易、安排、管理與諮詢服務之相關法律規範。
- (三) 提高交易商、投資顧問及其他金融市場從業人員之適任準則，並確保上述人員具有適當及合格之服務能力及職業道德素質，以及促進上述人員在其執行業務時遵循高標準之公平交易原則及職業道德水準。
- (四) 執行有關上市（櫃）公司證券、期貨契約與其他投資工具之內線交易、市場操縱及其他詐欺行為之相關法律規範。
- (五) 確保台灣或巴西證券市場之發行人，所有上市公司之董事、高級管理人員、股東及專業顧問履行所有相關法規下之責任，以及確保其完整、準確、即時地將資訊揭露予投資者。
- (六) 執行有關收購、合併及股票購回事項之相關法律規範。
- (七) 揭露公司於證券相關所得之利益。
- (八) 公司法之違法情事。
- (九) 雙方主管機關相關法規所定權責範圍內之其他事項。

4. PRINCIPLES

- a) This Memorandum sets forth a statement of intent of the Authorities to enhance the protection of investors and to promote the integ-
- 四、原則
- (一) 本備忘錄之目的在於提供合作、增加了解及資訊交流之架構，藉以加強對投資者之保障

urity of the securities and futures markets by providing a framework for cooperation, including channels for communication, increased mutual understanding and the exchange of information.

- b) This Memorandum does neither create any legally enforceable rights nor impose any legally binding obligations. This Memorandum does not modify or supersede any laws or regulatory requirements in force in, or applying to, Taiwan or Brazil.
- c) To the extent permitted by the applicable laws and practices, each Authority will use reasonable efforts to provide the other Authority with any relevant information that is discovered which gives rise to a suspicion of a breach, or anticipated breach, of the regulatory requirements or laws administered by the other Authority.

5. REQUESTS FOR ASSISTANCE OR INFORMATION

- a) The Authorities may consult at any time, about a request or proposed request.
- b) Requests for information or assistance will be made in writing in English. In urgent cases requests may be in summary form to be followed within five business days by a full request. The full request will be signed by one of the contact persons set out in Annex A.
- c) Requests for information or assistance will specify the following:
- (i) a general description of the information requested (including the identity of persons, etc.);
 - (ii) a general description of the nature of the case and the conduct or suspected conduct which gives rise to the request;
 - (iii) the purpose for which the information is sought (including details of the laws or

及提高證券及期貨市場之穩健性。

- (二) 本備忘錄並不對雙方產生任何法律上強制性之權利及義務，亦不取代或修改雙方現行之法令規範。
- (三) 在彼此法律許可之下，倘若任何一方發現任何資訊涉及與對方執法職權有關之涉嫌不當行為或預期可能發生之不當行為，則該方應以合理之方式盡力向對方提供該項資訊。

五、提供協助或索取資料之請求

- (一) 雙方可為某項要求或擬提出之要求隨時洽商。
- (二) 索取資訊或協助之要求須以英文書面提出。遇有緊急狀況，可用概要之方式提出要求，但應在隨後五個工作日內補交正式要求。該正式要求必須由附錄一所列之聯絡人之一簽署。
- (三) 索取資訊或協助之要求應包括下列之條件：
1. 要求索取之資訊之敘述（包括有關人士之身分等）。
 2. 該項要求之本質、處理方式或預期處理方式之敘述。
 3. 索取該項資訊之目的（包括與該要求有關之監管規

- regulatory requirements pertaining to the matter which is the subject of the request);
- (iv) the link between the specified laws or regulatory requirements and the regulatory function of the requesting Authority;
- (v) the relevance of the requested information to the specified laws or regulatory requirements; and
- (vi) to whom, if anyone, onward disclosure of information is likely to be necessary and the reason for such disclosure.
- d) Each request will be addressed by the requested Authority to determine whether information can be provided under the terms of this Memorandum. In any case where the request cannot be accepted completely, the requested Authority will consider whether there may be any other relevant information which can be given. If the requested Authority believes that other regulatory organizations may possess the information requested or that it may be more appropriate to provide the assistance requested, or if it is requested to do so by the requesting authority, it may refer the request to such regulatory organizations and notify the requesting Authority accordingly.
- e) In deciding whether to accept or decline a request the requested Authority will take account of:
- (i) matters specified by the laws and regulations in the territory of the requested Authority; and
- (ii) whether it would be contrary to the public interest to give the assistance sought;
- f) The requested Authority may, as a condition of agreeing that assistance is given under the Memorandum, require the requesting Authority to make a contribution to costs. Such a contribution may, in particular, be required where the cost of a request is substantial or where a
- 定之細節)。
4. 提出索求之一方法律上職權與特定監管規定間之關連。
5. 索取之資訊與特定監管規定之相關性。
6. 如有必要向第三者揭露所取得之資訊，該人之身分及向其揭露之原因。
- (四) 被要求之一方應對每項要求加以斟酌評估，以決定可否根據本備忘錄之安排提供資訊，如某項要求不能全部被接受，被要求之一方應考慮可否提供任何其他相關資訊。被要求之一方若相信其他管理機構具有該資訊、更適合提供該協助或應提出要求一方之請求，該項要求得轉由其他管理機構處置，並告知提出要求之一方。
- (五) 被要求之一方在決定接受或拒絕要求時，得將左列兩項列入考量：
1. 被要求一方之監管法令所載明相關事項。
2. 所提供之協助是否會違背公眾利益。
- (六) 被要求之一方可對提出要求之一方請求承擔部份有關費用，作為同意依據本備忘錄提供協助之一項條件，尤其是當有關要求涉及龐大之費用或累積費用之負擔出現大幅失衡情形。

substantial imbalance has arisen in the cumulative costs incurred;

- g) Any documents or other materials provided under this Memorandum and any copies thereof must be returned on request, to the extent permitted by law.

6. UNSOLICITED INFORMATION

Where one Authority has information which will assist the other Authority in the performance of its regulatory functions, the former may provide such information, or arrange such information to be provided, to the extent permitted by law, on a voluntary basis even though no request has been made by the other Authority. The terms and conditions of this Memorandum will apply if the providing Authority specifies that the information is passed under this Memorandum.

7. CONFIDENTIALITY AND USE OF INFORMATION

- a) Assistance or information will be provided by a Authority only for the purposes of assisting the other Authority to this Memorandum in the performance of its regulatory functions. Any assistance or information provided under this Memorandum should be used by the recipient only for the purposes of performing its regulatory functions and should not be disclosed to any third parties without the prior consent of the provider of the assistance or information. Each Authority will establish and maintain such safeguards as necessary and appropriate to protect the confidentiality of such information;
- b) If either Authority becomes aware that information passed under this Memorandum may be subject to a legally enforceable demand to disclose, it will, to the extent permitted by law, inform the other Authority of the situation. The Authorities will then discuss and determine the appropriate course of action.

8. CONTACT PERSONS

- (七) 於合法範圍之要求下，任何依據本備忘錄所提供之文件或資料及其影本皆須歸還。

六、主動提供資訊

如任何一方擁有可協助另一方執行其監督職權之資訊，即使對方沒提出要求，擁有資訊之一方也可在合法之狀況下，主動提供或安排第三者提供該項資訊。如提供資訊之一方聲稱該項資訊是根據本備忘錄提供，則本備忘錄之安排將同樣適用。

七、保密及資訊的使用

- (一) 雙方提供資訊或協助，其目的僅在協助本備忘錄之雙方執行其監督職權。根據本備忘錄所提供之協助或資訊，接受之一方只能為執行其監督職權之目的而使用，未經提供協助或資訊一方事前之同意，將不得向任何第三者揭露該項協助或資訊之內容。
- (二) 若任何一方發覺依本備忘錄所傳遞之資訊其揭露條件仍須經法律執行程序時，得在法律允許下告知對方該狀況。雙方將討論或決定採取妥適的作為。

八、聯絡人員

All communications between the Authorities should be between the contacts set out in Annex A unless otherwise agreed. Annex A may be amended by the relevant Authority upon written notice to the other Authority.

9. ENTRY INTO EFFECT

This Memorandum will come into operation from the date of signature by the SFC and the CVM.

Signed this 7th day of November, 1997 in Taipei.

SECURITIES AND FUTURES COMMISSION IN TAIPEI

[Signed]
Daung-yen Lu
Chairman

COMISSÃO DE VALORES MOBILIÁRIOS IN RIO DE JANEIRO

[Signed]
Francisco Costa e Silva
Chairman

ANNEX A - LIST OF CONTACT PERSONS

The Securities & Futures Commission (IN TAIPEI)

Mr. Chih-cheng Li
Deputy Director
or
Mr. Philip W. Ong
Assistant Director
International Affairs
Securities & Futures Commission
Ministry of Finance
85, Section I, Hsin Sheng South Road
Taipei, Taiwan, ROC
Tel: 886- 2-877-34161; 877-34142
Fax: 886- 2-877-34146; 877-34143

除非雙方另行達成協議，否則雙方之所有聯繫應在本契約附錄一所列者進行。任何一方得以書面通知另一方修訂附錄一。

九、生效日期

本備忘錄自 SFC 與 CVM 共同簽署之日起生效。

公曆一九九七年十一月七日於台北簽訂。

台北證券暨期貨管理委員會

主任委員 呂東英

里約熱內盧證券管理委員會

主任委員
法蘭西斯哥·哥斯塔·
伊·席爾瓦

附錄一聯絡人

台北市證券暨期貨管理委員會

李志城先生

財政部證券暨期貨管理委員會
國際事務組副組長

翁文祺先生
財政部證券暨期貨管理委員會
國際事務組專門委員
中華民國台灣省台北市新生南
路一段八十五號

電話：(八八六 二) 八七七
—三四一六一、八七七—三四一四
二

傳真號碼：(八八六 二) 八
七七—三四一四六、八七七—三四

Comissão de Valores Mobiliários (IN RIO DE JANEIRO)

Eduardo Manhaes Ribeiro Gomes
Superintendent, International Affairs
Comissão de Valores Mobiliários
Rua Sete de Setembro, 111-31º Andar
20159-900, Rio de Janeiro - RJ
Brazil
Tel: 55- 21-212-0263
Fax: 55-21-212-0292
e-mail: sdi@cvm.gov.br

一四三

里約熱內盧證券管理委員會

伊度亞多·曼哈斯·里貝羅·
高曼斯先生
里約熱內盧證券管理委員會國
際事務組經理
巴西里約熱內盧路西塔街一百
一十一之三十一號
電話：(五五)二一一二一二
—〇二六三
傳真號碼：(五五)二一一二
一二一〇二九二
電子郵件信箱：sdi@cvm.gov.
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