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(both copies)

**4 November, 2003**

**MEMORANDUM  
OF  
UNDERSTANDING**

**MEXICO**

**COMISION NACIONAL  
BANCARIA Y DE VALORES**

**UNITED KINGDOM**

**FINANCIAL SERVICES  
AUTHORITY**

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## Memorandum of Understanding (MOU)

Between

Comisión Nacional Bancaria  
y de Valores  
(CNBV)

and

Financial Services Authority  
(FSA)

### Recitals

- A. The CNBV is the United Mexican States' national banking and securities supervisor and regulator under the National Banking and Securities Commission Law (LCNBV).
- B. The CNBV supervises and regulates, within its jurisdiction, the financial entities regulated under the LCNBV, with the sole purpose of assuring their stability and fine performance, as well as maintaining and fostering a sound and balanced development of the financial system as a whole, while protecting the interests of the public. CNBV's powers are contained in the LCNBV, as well as in other applicable financial laws.
- C. The CNBV is authorised to assist and co-operate with similar foreign supervisory authorities, under the terms of a signed Memorandum of Understanding in accordance with articles 4 paragraphs XXIV and XXV, and 9 of the LCNBV.
- D. The FSA is the United Kingdom's national financial services and markets regulator. As such it administers the Financial Services and Markets Act 2000 (FSMA) which provides among other things for the supervision of financial services, financial service providers, financial products and financial markets. Also, in its capacity as the competent authority under Part IV of FSMA (i.e. the UK Listing authority), the FSA is responsible for regulating listed issues and their corporate advisers.
- E. The CNBV and the FSA wish to enter into this MOU to provide a formal basis for co-operation, including for the exchange of information and investigative assistance. The CNBV and the FSA believe such co-operation will enable them to more effectively perform their functions.
- F. This MOU is intended to take into account recent developments in the international environment, including the increasing importance of international co-operation with respect to money laundering (in particular relating to possible terrorist activities); market abuse; electronic commerce; and other aspects of financial regulation.
- G. The parties acknowledge that they may only provide information under this MOU, if permitted or not prevented under Applicable Laws and Regulations.

### Operative Part

#### 1. Interpretation

- 1.1 In this MOU, unless the context requires otherwise:



“Applicable Laws and Regulations” means any law in the United Mexican States and/or in the United Kingdom, and where the context permits include:

- a) Relevant European legislation that has not yet been transposed into United Kingdom domestic law; and
- b) Any law and regulation applicable in the United Mexican States or in the United Kingdom.

“FSA” means the Financial Services Authority;

“CNBV” means the Comisión Nacional Bancaria y de Valores;

“Person” means a natural person, legal entity, partnership or unincorporated association.

“Requested Authority” means an authority to whom a request is made under this MOU;

“Requesting Authority” means an authority making a request under this MOU.

“Authority or Authorities” means the FSA or/and CNBV.

## **2. Purpose**

- 2.1. The purpose of this MOU is to assist the Authorities to carry out their responsibilities and functions more effectively, by providing a framework for co-operation, including the exchange of information, channels for communication, increased mutual understanding and the provisions of investigative assistance, to the extent permitted by Applicable Laws and Regulations.

## **3. Principles**

- 3.1 The Authorities intend to provide mutual assistance within the terms of this MOU. This MOU does not modify or supersede any laws or regulations in force in, or applying to, in the United Mexican States or in the United Kingdom.
- 3.2 This MOU sets forth a statement of intent and accordingly does not create any enforceable rights. This MOU does not affect any arrangements under other MOUs.
- 3.3 The MOU is comprised of the recital, operative part and all Annexes attached thereto.
- 3.4 The Authorities acknowledge that they may only provide information under this MOU if permitted or not prevented under Applicable Laws and Regulations.

## **4. Requests for Assistance**

- 4.1 The Authorities may provide information, or arrange for information to be provided, on a voluntary basis even though no request has been made.



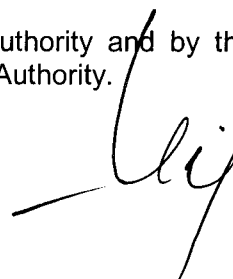
4.2 If a request for assistance is made, each Authority will use reasonable efforts to provide mutual assistance to the other, subject to its Applicable Laws and Regulations and overall policy. Assistance may include for example:

- a) Providing information in the possession of the Requested Authority;
- b) Confirming or verifying information provided to it for that purpose by the Requesting Authority;
- c) Exchanging information on or discussing issues of mutual interest;
- d) Obtaining specified information and documents from persons;
- e) Questioning or taking testimony of persons designated by the Requesting Authority, in accordance with the Applicable Laws and Regulations of the Requested Authority;
- f) Conducting inspections or examinations of financial services providers or arranging for the same;
- g) Obtaining where appropriate, the assistance of other agencies with the competence to provide the assistance requested.

## 5. Procedure for Requests

5.1 Requests for the provision of information or other assistance will be made in writing, or made orally and, unless otherwise agreed, confirmed in writing within ten business days. To facilitate assistance, the Requesting Authority should specify in any written request:

- a) The information or other assistance requested (identity of persons, specific questions to be asked, etc.);
- b) If information is provided by the Requesting Authority for confirmation or verification, the information and the kind of confirmation or verification sought;
- c) The purpose for which the information or other assistance is sought;
- d) To whom, if anyone, onward disclosure of information provided to the Requesting Authority is likely to be necessary and the purpose such disclosure would serve;
- e) If the request for assistance is for the purpose of actual or possible enforcement action, the matters set out in clause 1 of Appendix 1; and
- f) Any other matters specified by the Requested Authority and by the Applicable Laws and Regulations in relation to the Requested Authority.



## **6. Assessing Requests**

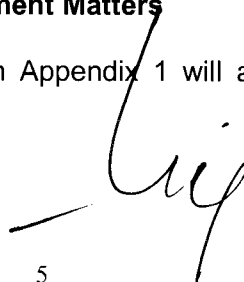
- 6.1 Each request will be assessed on a case-by-case basis by the Requested Authority to determine whether assistance can be provided under the terms of this MOU. In any case where the request cannot be fulfilled in part or whole, the Requested Authority will consider whether there may be other assistance, which can be given by it or by any agency in its jurisdiction.
- 6.2 In deciding whether and to what extent to fulfill a request, the Requested Authority may take into account:
- a) Whether the request conforms with this MOU;
  - b) Whether the request involves the administration of a law or regulation which has no close parallel in the jurisdiction of the Requested Authority;
  - c) Whether the provision of assistance would be so burdensome as to disrupt the proper performance of the Requested Authority's functions;
  - d) Whether it would be otherwise contrary to the public interest or the essential national interest of the Requested Authority's jurisdiction to give the assistance sought;
  - e) If the request of assistance is for the purpose of actual or possible enforcement action, the further matter set out in clause 2 of Appendix 1;
  - f) Any other matters specified by the Applicable Laws and Regulations of the Requested Authority's jurisdiction. (In particular those relating to confidentiality and professional secrecy, data protection and privacy, and procedural fairness); and
  - g) Whether complying with the request may otherwise be prejudicial to the performance by the Requested Authority of its functions.
- 6.3 The Authorities recognise that the assistance may be denied in whole or in part for any of the reasons mentioned in paragraph 6.2 at the discretion of the Requested Authority.

## **7. Contact Points**

- 7.1 The Authorities will provide a list of contact points to which information or requests for information or assistance under this MOU should be directed.

## **8. Further Procedures for Enforcement Matters**

- 8.1 The further procedures set out in Appendix 1 will apply in relation to actual or possible enforcement matters.

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**9. Costs**

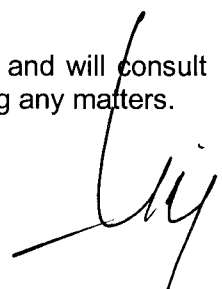
- 9.1 The Requested Authority may, as a condition of agreeing to give assistance under this MOU, require the Requesting Authority to make a contribution to costs. Such contribution may, in particular, be required if the cost of fulfilling a request is likely to be substantial.

**10. Confidentiality**

- 10.1 Information will be provided under this MOU by the Authorities for the purpose of assisting each other in the performance of their functions within the scope of this MOU. To the extent permitted by law, each Authority will keep confidential any request made for any non-public information passed under this MOU. Information received will be used solely for the purpose of:
- a) Securing compliance with or enforcement of Applicable Laws and Regulations or such other use specified in the request;
  - b) Initiating or assisting in criminal investigations and prosecutions arising out of the breach of Applicable Laws and Regulations; or
  - c) Conducting or assisting in civil or administrative proceedings arising out of the breach of Applicable Laws and Regulations specified in the requests (and brought by the Authorities or other law enforcement or regulatory bodies within the jurisdictions of the United Kingdom and the United Mexican States).
- 10.2 The Requesting Authority will notify and pursuant to paragraph 11.1 consult with the Requested Authority where it seeks to use any non-public information passed under this MOU for purposes other than those set out in paragraph 10.1 above or where it proposes to pass on information to another person not specified in the request.
- 10.3 The Requesting Authority will endeavour to comply with any restrictions on the use of information that are agreed when the information is provided.
- 10.4 In the event of a legally enforceable demand for information supplied under this MOU, the Authority receiving the demand will notify the Authority that supplied the information of the demand and will assert such appropriate legal exemptions or privileges with respect to that information as may be available.
- 10.5 Any document or other material provided in response to a request under this MOU and any copies thereof should be returned on request to the extent permitted by law.

**11. Consultation**

- 11.1 The Authorities will keep the operation of this MOU under review and will consult when necessary with a view to improving its operation and resolving any matters.



11.2 Where the specific conduct set out in the request for assistance may constitute a breach of a law or regulation in both the territory of the Requesting and the Requested Authorities, the relevant Authorities will consult to determine the most appropriate means for each Authority to provide assistance.

**12. Effective Date and Termination**

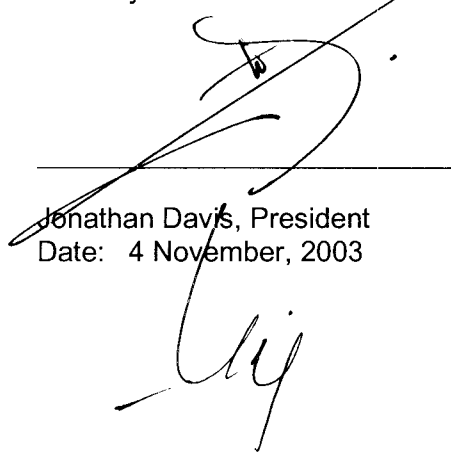
12.1 This MOU will enter into effect upon signature by both Authorities and shall continue to have effect unless terminated by either Authority by giving 30 days advance written notice to the other Authority. It may be amended in writing.

**13. Language of the MOU text**

13.1 The text of the MOU will be executed in English and in Spanish but if there is any inconsistency as between the two versions the English text of the MOU shall prevail.

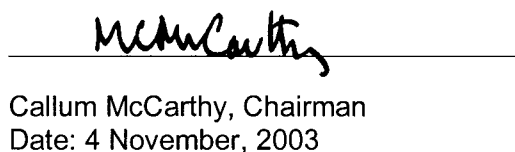
Executed by the Parties:

For Comisión Nacional Bancaria  
y de Valores



Jonathan Davis, President  
Date: 4 November, 2003

For Financial Services Authority



Callum McCarthy, Chairman  
Date: 4 November, 2003



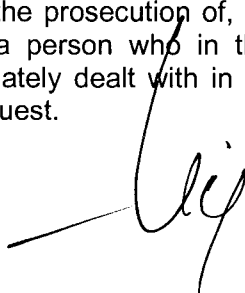
## **Appendix 1: Further Procedures for Enforcement Matters**

### **Further details to be contained in requests for assistance**

1. If a request for assistance as described in this MOU relates to actual or possible enforcement action, the following further details will be contained in the request:
  - a) A description of the conduct which gives rise to the request;
  - b) Details of the law or regulation to the administration of which the request is relevant;
  - c) The link between the specified rule or law and the regulatory functions of the Requesting Authority;
  - d) The relevance of the requested assistance to the specified rule or law; and
  - e) Whether it is desired that, to the extent permitted by the Applicable Laws and Regulation of the Requested Authority, any persons from the country of the Requesting Authority' should be present during interviews which form part of an investigation.

### **Further ground for denial of requests**

2. If a request for assistance as described in this MOU, relates to actual or possible enforcement action, the following further matter may be taken into account by the Requested Authority in determining whether to fulfill the request in whole or in part:
  - Whether the request would lead to the prosecution of, or the taking of disciplinary or other enforcement action against, a person who in the opinion of the Requested Authority has already been appropriately dealt with in relation to the alleged breach which is the subject-matter of the request.

A handwritten signature in black ink, appearing to be 'Uij', is written over the text of the second bullet point in the 'Further ground for denial of requests' section.