

MEMORANDUM OF UNDERSTANDING

between

FINANTSINSPEKTSIOON

and

RAHOITUSTARKASTUS

concerning their co-operation in the field of securities supervision

8 February 2002

Finantsinspektsioon and Rahoitustarkastus (hereinafter referred as Authorities) recognize the increasing international activities in the securities and futures markets of both jurisdictions and the corresponding need for mutual co-operation between authorities.

Finantsinspektsioon and Rahoitustarkastus consider the importance of ensuring compliance with and enforcement of securities laws and regulations applicable in Estonia and in Finland.

Finantsinspektsioon and Rahoitustarkastus wish to achieve the provision of the broadest mutual assistance, in order to enhance the performance of the supervisory functions and the effective enforcement of the laws and regulations governing financial markets.

Article 1 - Definitions

1. "Requested Authority" means the Authority to whom a request is made under this Memorandum of Understanding.
2. "Requesting Authority" means the Authority making a request under this Memorandum of Understanding.
3. "Laws or regulations" means any laws or regulations in force in the respective states of the Authorities.
4. "Person" means any natural or legal person.
5. "Securities" means shares, bonds and other forms of securitized debts, futures and derivative products including commodity derivatives, units of undertakings in collective investment schemes and any other financial products traded in the respective states of the Authorities.
6. "Financial Markets" means any securities and derivatives market supervised by the Authorities.
7. "Intermediary" means any investment firm, bank, collective investment scheme and any other person acting within the scope of competence of the Authorities.
8. "Issuer" means a person making an offer to the public or seeking listing of a security.

Article 2 - Scope of Assistance

1. The Authorities shall provide each other to the extent permitted by their respective laws and regulations with the fullest mutual assistance in any matters falling within the competence of the Authorities, including in particular the following areas:
 - a) investigations and enforcement in connection with applicable laws or regulations relating to insider dealing, market manipulation and other fraudulent or manipulative practices in the securities field,
 - b) investigation and enforcement of, and monitoring compliance with, applicable laws and regulations relating to dealing in, advising on and the management, administration and safekeeping of

securities,

- c) checking that the conditions for the taking up of (or continuing in) business as an Intermediary are met (including e.g. the enforcement of requirements to be authorised),
 - d) enforcing and monitoring compliance with applicable laws and regulations relating to the disclosure of interests in securities, takeover bids or the acquisition of influence over financial intermediaries,
 - e) the supervision of the Financial Markets, including the clearing and settlement, the monitoring and surveillance of OTC-transactions in securities listed on EEA regulated markets as defined in the ISD,
 - f) enforcing or monitoring compliance with applicable laws relating to the duties of issuers and offerors of securities in relation to the disclosure of information.
2. In cases where the information requested may be maintained by or available to another authority within the country of the Requested Authority, the Authorities will endeavour to provide full assistance in obtaining the information requested to the extent permitted by law. If necessary, the Requested Authority shall provide the Requesting Authority with sufficient information to establish direct contact between the Requesting Authority and the other authority.
 3. The Requested Authority may only refuse to act on a request for assistance where communication of the information might adversely affect the sovereignty, security or public policy of the State of the Requested Authority or where judicial proceedings for the imposition of criminal penalties have already been initiated in the jurisdiction of the Requested Authority, in respect of the same actions and against the same persons, or, on the grounds that the provision of assistance might result in a judicial or administrative sanction being imposed, where a non-appealable judicial or administrative sanction has already been imposed, in the jurisdiction of the Requested Authority, in respect of the same actions and against the same persons.

The denial of assistance does not undermine the obligation of the Authorities to consult each other. 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. To the extent permitted by their national law and procedures and without prior request, each Authority should provide any other Authority with any relevant factual information available to it and which it believes to be helpful to the other Authority for the discharge of its functions and for the purposes, which it may specify in the communication (unsolicited information).

Article 3 - Requests for Assistance

1. Requests for assistance shall be made in writing and addressed to the contact person of the Requested Authority listed in Annex 3 of the Memorandum.
2. In case of emergency, requests for information and replies to such requests may be transmitted orally provided that these requests are confirmed in the manner required in this Article unless the Requested Authority agrees to waive such requirements.
3. To the extent available to the Requested Authority and in order to facilitate the Requested Authority's work the Request should specify the following:

- a) a description of the subject matter of the request and the purpose for which the information is sought and the reasons why this information will be of assistance;
- b) a description of the specific information requested by the Requesting Authority;
- c) in so far as the request results from investigations of violations of any laws or regulations, a short description of the relevant provisions that may have been violated and, if known to the Requesting Authority, a list of the persons or institutions believed by the Requesting Authority to possess the information sought or the places where such information may be obtained;
- d) in so far as the request concerns information relating to transactions in specific securities
 - a description of the securities in question as precise as possible (including e.g. the securities code),
 - the names of those firms with whose dealings in the securities the Requesting Authority is concerned,
 - the dates between which transactions in the securities are considered relevant for the purposes of the request,
 - the names of any persons on whose behalf relevant transactions in the securities are believed or suspected to have been entered into;
- e) in so far as the request relates to information concerning the business or activities of any person, such precise information as the Requested Authority is able to provide so as to enable such persons to be identified;
- f) an indication of the sensitivity of the information contained in the request and whether the Requesting Authority is content for the fact that it has made the request to be disclosed to persons whom the Requested Authority may need to approach for information;
- g) whether the Requesting Authority is or has been in contact with any other authority or law enforcement agency in the State of the Requested Authority in relation to the subject matter of the request;
- h) any other authority whom the Requesting Authority is aware has an active interest in the subject matter of the request;
- i) an indication of the urgency of the request, or the desired time period for the reply.

Article 4 - Execution of Requests for Assistance

1. To the extent permitted by law, the Requested Authority shall take all reasonable steps to obtain and provide the information sought.
2. The Requested Authority shall use the relevant means at its disposal for the execution of the request. The Authorities shall consult and agree on the types of enquiry that may be necessary for the execution of a request.

To the extent permitted by law, the Requesting Authority shall provide the Requested Authority with such further assistance as may reasonably be required for the efficient execution of the request in-

cluding the provision of further information as to the circumstances surrounding the request, staff or other resources.

Without prejudice to the provisions set forth by the EU legislation relating to the inspection of branches, the Authorities will consider (to the extent permitted by law) conducting joint investigations in cases where the request for assistance concerns violations of laws or regulations, where it would assist in the effective investigation of the alleged violations. The Authorities should consult to define the procedures to be adopted for conducting any joint investigation, the sharing of work and responsibilities and the follow up actions to such investigations.

Article 5 - Permissible Uses of the Information Exchanged and Confidentiality

1. The Authorities shall use the information exchanged solely for the purposes of:
 - a) securing compliance with or enforcement of the domestic laws or regulations specified in the Request;
 - b) initiating, conducting or assisting in criminal, administrative, civil or disciplinary proceedings resulting from the violation of the laws or regulations specified in the Request;
 - c) any of the particular purposes specified in Article 2 to the extent that they are administered by the Requesting Authority.

The Authorities to which unsolicited information is supplied will use this information solely for the purposes stated in the transmission letter or for the purposes of criminal or administrative proceedings or for the discharge of the obligation to report to judicial authorities.

2. To the extent permitted by law, each Authority will keep confidential any request for assistance made under this Memorandum of Understanding, the contents of such requests and the information received under this Memorandum of Understanding as well as the matter arising in the course of its operation, in particular consultations between Authorities.
3. If an Authority intends to use or disclose information furnished under this Memorandum for any purpose other than those stated in this Article and in the request, it must obtain the prior consent of the Authority which provided the information. If the Requested Authority consents to the use of the information for purposes other than those stated, it may subject it to certain conditions.
4. Nothing in paragraphs 1 and 2 of this Article shall prevent an Authority from using or disclosing information in circumstances where such use or disclosure is required in order to comply with the obligations under European Directives.
5. If an Authority decides to make public an administrative or a disciplinary sanction within the course of its duties it may, with the consent of the Authority providing the information, indicate that the successful outcome of the case has been achieved with the aid of the international co-operation mechanisms provided for in this Memorandum of Understanding.

Article 6 - Technical Arrangements

1. Unless otherwise agreed, the Authorities shall correspond with each other in English.
2. The Authorities shall promote their mutual co-operation through visits for informational purposes and by exchanging staff.
3. The Authorities agree that it would be desirable to hold regular meetings in order to discuss the implementation of this memorandum and questions relating to the cross-border provision of services. The Authorities shall, once a year, consider the necessity of such a meeting. The employees who take part in the co-operation should convene once a year at such meetings to discuss fundamental issues with a view to enhancing the quality of co-operation.
4. Each Authority will be responsible for its own costs. In exceptional cases the Authorities may agree on that the Requesting Authority will cover the expenses or part of them to the Requested Authority. Concerning regular meetings the organising Authority will be responsible for the actual costs of the meeting.

Article 7 – Consultations

1. The Authorities agree to inform each other on any legal or regulatory development 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 revolving any matters which may arise. In particular the Authorities should consult each other in case of:
 - a) refusal to provide assistance;
 - b) disagreement in the use of the information provided as mentioned in Article 6 of this Memorandum;
 - c) significant change in the economic situation of the Authorities or in the enforceable laws and regulations that may require to modify this Memorandum.
3. The Authorities may agree on further practical arrangements as may be necessary to facilitate the implementation of this Memorandum.

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 8 – Amendments to the Memorandum of Understanding

The Authorities may by common consent make amendments and add further Annexes to the Memorandum of Understanding they consider necessary.

Article 9 – Publication

The Authorities agree to publish this Memorandum.

Article 10 – Entry Into Effect and Termination

1. This Memorandum of Understanding shall be effective from the date of its signing by the parties.
2. This Memorandum of Understanding shall be concluded for an unlimited period of time and may be denounced by any of the Authorities at any time by giving, at least, thirty days prior written notice to the other Authority. If the Requested Authority undertakes to denounce the Memorandum of Understanding requests for information communicated before the effective date of denunciation will still be processed under this Memorandum of Understanding.

8 February 2002

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On behalf of Finantsinspektsioon

On behalf of Rahoitustarkastus


Andres Trink
Head of Management Board


Kaarlo Jännäri
Director General


Kristjan-Erik Suurväli
Member of Management Board


Anneli Tuominen
Deputy Director General

Annexes

Annex 1

Description of the Estonian regulatory structure and responsibilities of the Authorities.

Annex 2

Description of the Finnish regulatory structure and responsibilities of the Authorities.

Annex 3

List of contact persons.

ANNEX 1

The description of Estonian regulatory structure and responsibilities of the Authority

The Estonian Financial Supervision Authority (EFSA) is an agency with autonomous competence and a separate budget established by the Financial Supervision Authority Act. The EFSA functions administratively in connection with the Bank of Estonia. The Supervision Authority shall operate pursuant to legislation and the internationally recognised principles of financial supervision. It shall act openly and transparently and apply the principles of sound administration.

The EFSA is responsible for prudential supervision and granting the authorisations for credit institutions, insurance companies, insurance intermediaries, investment firms, mutual and pension funds management firms, regulated markets and securities clearing systems. The licences of qualification for fund managers are granted by Ministry of Finance. The Bank of Estonia and Ministry of Finance are responsible for secondary legislation. The EFSA cooperates with other authorities, notably The Bank of Estonia and the Ministry of Finance.

The EFSA supervises financial markets and market participants. The operational objective is to enhance the stability, reliability, transparency and efficiency of the financial sector, to reduce systemic risks and to promote prevention of the abuse of the financial sector for criminal purposes, with a view to protecting the interests of clients and investors by safeguarding their financial resources, and thereby supporting the stability of the Estonian monetary system. There are about 490 supervised entities. These include issuers, banks, brokerage firms, stock and derivatives exchanges, management companies for mutual funds, insurance companies and insurance intermediaries. In addition to legality control, the EFSA also issues guidelines on supervised entities' activities.

ANNEX 2

The description of Finnish regulatory structure and responsibilities of the Authority

The Financial Supervision Authority (FSA) is the authority that supervises financial markets in Finland. It was established in 1993. It operates in conjunction with the Bank of Finland, but it is independent in its decision-making. The Director General of the FSA is vested with the FSA's decision-making authority on supervisory and regulatory matters. He is assisted by an advisory Management Group. The FSA submits an annual report on its activities to the Parliamentary Supervisory Council.

The FSA supervises financial markets and market participants. There are about 500 supervised entities. These include credit institutions, investment firms, stock and derivatives exchanges and management companies for mutual funds. The objective of the FSA in its supervision of securities markets is to promote stable conditions in the financial markets and confidence in the activities of supervised entities and markets. To this end, the FSA is responsible for prudential supervision and monitoring market practices and issuers' compliance with disclosure requirements and investigating cases where there is reason to suspect market abuse. The FSA also seeks to promote smooth and reliable securities trading and clearing and settlement procedures.

The FSA is responsible for ensuring that supervised entities operate in accord with laws, decrees, regulations and guidelines and their own articles of association and rules. The FSA's regulatory activities take the form of both involvement in the drafting of financial market legislation at national and international level as well as the issue of its own regulations and guidelines.

With the exception of the insurance pensions sector, the formulation of legislation and licensing authority in the financial system rests with the Ministry of Finance. The insurance and pension industry is supervised by the Insurance Supervisory Authority. From the administrative point of view the Insurance Inspectorate belongs under the Ministry of Social Affairs and Health. The FSA and the Insurance Supervision Authority maintain close co-operation. The boards of the two supervisory authorities are almost identical.

ANNEX 3

The Requested Authority's contact persons pursuant to Article 3 of the Memorandum are:

For Finantsinspeksioon

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