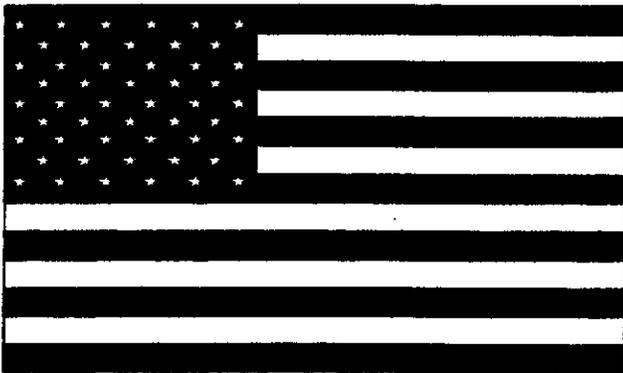
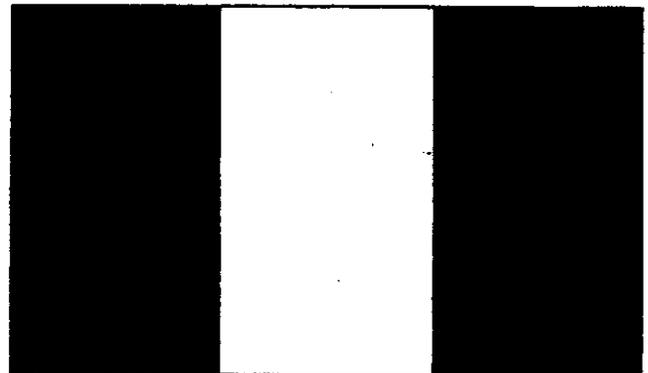


# MEMORANDUM OF UNDERSTANDING



*The United States  
Securities and Exchange Commission*



*The Commissione  
Nazionale per la Societa  
e la Borsa of Italy*

*Washington, D.C.  
May 5, 1993*

*Milan  
May 3, 1993*

**SECURITIES AND EXCHANGE  
COMMISSION OF THE UNITED  
STATES OF AMERICA**

**COMMISSIONE NAZIONALE  
PER LE SOCIETA E LA BORSA  
OF ITALY**

**MEMORANDUM OF UNDERSTANDING**

The U.S. Securities and Exchange Commission ("SEC") and the Italian Commissione Nazionale per le Societa e la Borsa ("CONSOB");

Considering, in light of the increasing international activity in the securities markets, the need for mutual cooperation and consultation in order to facilitate the performance of their functions in the matters mentioned hereinafter;

Considering the importance of ensuring compliance with and enforcement of the securities laws and regulations of the United States and Italy;

Desiring to establish the fullest mutual assistance in order to facilitate the performance of the functions they are entrusted with in their respective States to enforce or secure compliance with any law or regulation, as that term is defined herein, have reached the following understanding:

**Article 1: Purpose of the Memorandum of Understanding**

The purpose of this Memorandum of Understanding ("Understanding") is to establish a system for mutual assistance between the administrative Authorities designated hereinafter, in order to facilitate the performance of the functions they are entrusted with in their respective States and to enforce or secure compliance with any law or regulation, as that term is defined herein, including those which:

- (a) create and protect the rights of investors to obtain timely and accurate information regarding the issuers of securities;
- (b) prohibit and provide sanctions against the abusive use of confidential information and other manipulative market practices;
- (c) ensure compliance by all market participants with the laws and regulations governing market procedures and organization; and
- (d) ensure compliance by all securities and investment professionals with the laws and regulations governing their professions and their operations on the securities markets, including laws and regulations concerning the transmission and execution of orders or the management of individual or collective portfolios of securities.

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**Article 2: Definitions**

For the purposes of this Understanding:

- (1) "Authority" means:
  - (a) the Securities and Exchange Commission of the United States, or
  - (b) Commissione Nazionale per le Societa e la Borsa.
- (2) "requested Authority" means an Authority to whom a request is made under this Understanding.
- (3) "requesting Authority" means an Authority making a request under this Understanding.
- (4) "person" means a natural person or legal entity, trustee, or partnership.
- (5) "security" means a stock, bond, debenture, note, or any other right, contract or document that falls within the jurisdiction of the Authorities.
- (6) "issuer" means a person who issues or proposes to issue any security.
- (7) "securities market" means an exchange or other market, including an over-the-counter market, for equity securities, debt securities, bonds, options or any other security that is recognized, regulated or supervised by the Authorities.
- (8) "investor" means a person who directly or indirectly has, holds or places an order to obtain a beneficial interest in securities.
- (9) "professionals carrying out operations on the securities markets" means:
  - (a) any person who engages in the business of purchasing, selling, transferring, clearing or settling securities; collecting, executing or transmitting orders given by investors concerning the purchase or sale of securities; engaging for his own account, or for the accounts of investors, in the management of individual or collective securities portfolios; or advising others in these matters; and
  - (b) any person who is associated with another person who performs any function listed in subparagraph (a) including, without limitation, an employee or authorized representative.

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(10) "laws or regulations" means the provisions of the laws of the United States and Italy or any rule adopted thereunder by one of the Authorities, concerning:

(a) insider trading, misrepresentation, or the use of fraudulent, deceptive, or manipulative practices in connection with the offer, purchase, or sale of any security;

(b) the duty of an issuer of securities, or persons related, directly or indirectly, to such issuer to comply with any requirement to make timely and accurate disclosure of information; and

(c) the duty of a professional carrying out operations on the securities markets pertaining to his profession or his function in the securities markets, including the duty pertaining to the handling, transmission and execution of orders, the management of any securities portfolio, the settlement of securities transactions, the safeguarding and custody of customer securities, and any financial or operational requirements.

**Article 3: Scope of the Memorandum of Understanding**

1. The Authorities intend to provide each other the maximum assistance possible under this Understanding, in order to facilitate the exchange of information between such Authorities relating to facts in connection with investigations to determine whether any person has violated the laws or regulations of the State of the requesting Authority. For that purpose, they will:

(a) provide access to information in the files of the requested authority;

(b) take statements from persons;

(c) obtain documents from persons; and

(d) conduct compliance inspections or examinations of investment businesses, securities processing businesses and securities markets.

2. The Authorities intend to utilize their full powers to implement the Understanding but recognize that there are differences in the scope of authority by which they may implement and enforce the laws and regulations of their respective States. Nevertheless, the Authorities intend to

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provide, or otherwise facilitate the provision of, assistance to the full extent permitted by law to accomplish the objectives of this Understanding. To the degree that the powers of either Authority may be increased, the Authorities intend to consider expansion of the Understanding to encompass such changes.

**Article 4: General Principles**

1. No provision of this Understanding shall be construed as conferring the right to ask for, or challenge, the execution of a request for assistance upon any person or authority other than those designated herein.
2. Assistance under this Understanding may be denied where:
  - (a) the execution of the request would prejudice the sovereignty, security, fundamental economic interests, or public order of the State of the requested Authority;
  - (b) the request is not in accordance with the provisions set forth in this Understanding;
  - (c) the information requested concerns facts that originated before the date of effect of this Understanding;
  - (d) a criminal proceeding has already been initiated in the State of the requested Authority based upon the same facts and against the same persons, or the same persons have already been finally sanctioned on the same charges by the competent authorities of the State of the requested Authority, unless the requesting Authority can demonstrate that the relief or sanctions sought in any such proceeding would not be duplicative of any relief or sanctions obtained in the State of the requested Authority.

**Article 5: Requests for Assistance**

1. Requests for assistance must be made in writing and addressed to the requested Authority's contact officer listed in Appendix A. Requests shall be accompanied by a translation into Italian in the case of a request to the CONSOB and into English in the case of a request to the Securities and Exchange Commission;
2. The request for assistance shall specify the following:
  - (a) the information sought by the requesting Authority;

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- (b) a general description of both the matter that is the subject of the request and the purpose for which the information is sought;
  - (c) the persons or entities suspected by the requesting Authority of possessing the information sought, or the places where such information may be obtained, if the requesting Authority is knowledgeable thereof;
  - (d) the laws or regulations pertaining to the matter that is the subject of the request; and
  - (e) the desired time period for the reply and, where appropriate, the urgency thereof.
3. In the event of urgency, requests for assistance and replies to such requests may be transmitted by summary or emergency procedures provided that they are confirmed in the manner prescribed in paragraphs 1 and 2 of this Article.

**Article 6: Execution of Requests**

- 1. Access to information held in the files of the requested Authority will be provided upon request of the requesting Authority according to Article 5.
- 2. If the requesting Authority so specifies in the request, the statement of any person who has participated directly or indirectly in the facts specified in the request, or any person subject to the control of the requested authority who has information relating to those facts, will be taken and the production of any relevant document will be required. Statements will be taken in the same manner and to the same extent as in proceedings in the State of the requested Authority.
- 3. A person whose statement is taken pursuant to a request will have the right to have counsel present during the taking of the statement.
- 4. While it shall not be the normal practice, if the requested Authority consents, representatives designated by the requesting Authority may be present when a statement is taken and may prescribe specific questions to be asked.
- 5. While it shall not be the normal practice, if the requested Authority consents, a verbatim transcript may be made of the statement.

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**Article 7: Permissible Use of Information**

1. The requesting Authority may use the information furnished solely:
  - (a) for purposes stated in the request, including ensuring compliance with or enforcement of the legal provisions specified in the request; or
  - (b) for purposes within the general framework of the use stated in the request, including conducting a civil or administrative enforcement proceeding; assisting with a self-regulatory enforcement proceeding or market surveillance; and assisting in a proceeding, including a proceeding whose purpose is to permit a subsequent criminal prosecution, or conducting any investigation related thereto for any general charge applicable to the violation of the provision specified in the request.
2. To use the information furnished for any purpose other than those stated in paragraph 1 of this Article, the requesting Authority must first inform the requested Authority of its intention and provide it the opportunity to oppose the use. If, under such conditions, the requested Authority does not oppose the use of the information for purposes other than those stated in paragraph 1 of this Article, it may subject the use of the information to certain conditions. If use of the information is opposed by the requested Authority, the Authorities intend to consult pursuant to Article 9 concerning the reasons for the refusal and the circumstances under which use of the information might otherwise be allowed.

**Article 8: Confidentiality of Requests**

1. Each Authority shall keep confidential, to the extent permitted by law, requests made within the framework of this Understanding, the contents of such requests, and any other matters arising during the operation of this Understanding, including consultations between the Authorities.
2. The requesting Authority shall keep confidential any information received pursuant to this Understanding to the same extent as such information would be kept confidential in the territory of the State of the requested Authority, except in the case where the information provided must be disclosed in the course of its use pursuant to Article 7 above.
3. The Authorities may, by mutual arrangement, make an exception to the principles set forth in paragraphs 1 and 2 above, to the extent permitted by the law applicable to each Authority.

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## Article 9: Disputes and Consultations

1. In any case of dispute over the meaning of any term used in this Understanding, the Authorities shall define the terms herein by mutual arrangement.
2. The Authorities will keep the operation of this Understanding under continuous review and will consult with a view to improving its operation and resolving any matters that may arise. In particular, the Authorities will consult upon request in the event of:
  - (a) a refusal by one Authority to comply with a request for information on the grounds set forth in paragraph 3 of Article 4, or a request to use information on the grounds set forth in paragraph 2 of Article 7; or
  - (b) a change in market or business conditions or in the laws or regulations mentioned in paragraph 10 of Article 2 or any other difficulty which makes it necessary to amend or extend this Understanding in order to achieve its purposes.
3. The Authorities may make arrangements on such practical measures as may be necessary to facilitate the implementation of this Understanding.

## Article 10: Effective Date

This Memorandum of Understanding will be effective from the date of its signing by the Authorities. Each Authority shall inform the other Authority of the adoption of the domestic measures that may be necessary to implement the provisions of this Understanding. This Understanding shall immediately enter into force upon such exchange of letters of notification by the Authorities.

## Article 11: Cost Sharing

If it appears to the requested Authority that it will incur substantial costs in responding to a request for assistance under this Understanding, the requested Authority and the requesting Authority will establish a cost sharing arrangement before continuing to respond to such a request for assistance.

**Article 12: Termination**

This Understanding shall remain in force unless terminated by either Authority upon 30 days written notice to the other Authority.

Signed in Washington, D.C. on May 5, and in Milan, Italy on May 3, 1993.

SECURITIES AND  
EXCHANGE COMMISSION  
OF THE UNITED STATES OF  
AMERICA

COMMISSION NAZIONALE PER LE  
SOCIETA E LA BORSA OF ITALY

by Richard C. Breeden

by Enzo Berlanda

Richard C. Breeden  
Chairman

Enzo Berlanda  
Chairman

**APPENDIX A**

The Authorities' contact offices, pursuant Article 5 of the Understanding are:

For the Securities and Exchange Commission:

Director  
Office of International Affairs  
450 Fifth Street, NW  
Washington, D.C.  
20549

Phone: (202) 272-2306  
Fax: (202) 504-2282

For the Commission Nazionale per le Societa e la Borsa of Italy:  
Head of the Office for EEC and International Affairs  
19/D Via Isonzo  
00198 ROME

Phone: 39-6-847-771  
Fax: 39-6-841-6703

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