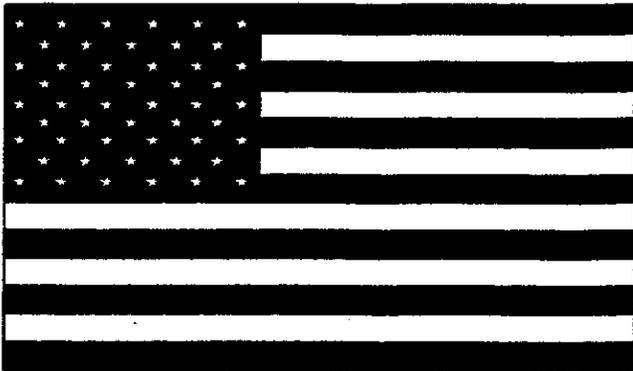
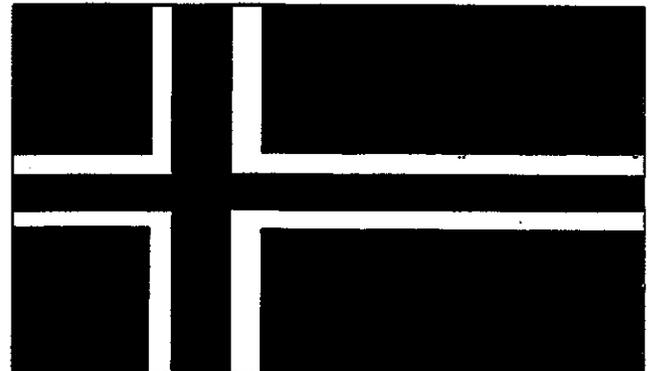


# MEMORANDUM OF UNDERSTANDING



*The United States  
Securities and Exchange Commission*



*The Banking, Insurance and Securities  
Commission of Norway*

**CONCERNING CONSULTATION AND COOPERATION IN THE  
ADMINISTRATION AND ENFORCEMENT OF SECURITIES LAWS**

*Washington, D.C.  
September 24, 1991*

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN THE**

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**

**AND THE**

**NORWAY BANKING, INSURANCE & SECURITIES COMMISSION**

**CONCERNING CONSULTATION AND COOPERATION IN THE  
ADMINISTRATION AND ENFORCEMENT OF SECURITIES LAWS**

**September 24, 1991**

## MEMORANDUM OF UNDERSTANDING

The United States Securities and Exchange Commission and the Norway Banking, Insurance & Securities Commission recognize the increasing international activity in securities markets and the corresponding need for mutual cooperation in matters relating to the administration and enforcement of United States and Norwegian securities laws.

Additionally, the parties to this Memorandum of Understanding believe that given the interconnection of the United States and Norwegian securities markets, it is essential to establish a comprehensive framework for enhancing communication about all matters relating to the operation of the securities markets of their respective countries. Cooperation and consultation between the United States Securities and Exchange Commission and the Norway Banking, Insurance & Securities Commission, will create the balance between market oversight and stability, and market development and competition, that is critical to the continued evolution of their domestic markets.

Based on the foregoing, the United States Securities and Exchange Commission and the Norway Banking, Insurance & Securities Commission have reached the following understanding with respect to consultations and mutual cooperation.

**ARTICLE 1: DEFINITIONS**

1. For the purposes of this Memorandum of Understanding:

(a) "Authority" means:

(i) the Securities and Exchange Commission of the United States; or

(ii) the Banking, Insurance & Securities Commission of Norway.

(b) (i) "requested Authority" means an Authority to whom a request under this Memorandum of Understanding is made; or

(ii) "requesting Authority" means an Authority making a request under this Memorandum of Understanding.

(c) "person" includes a natural person, unincorporated association, partnership, body corporate, government or political subdivision, agency, or instrumentality of a government.

(d) "issuer" means a person who issues or proposes to issue any securities.

(e) "investment businesses" means investment advisers, investment advisory services, investment companies, other collective investment undertakings, investment banks, brokers, dealers, dealers' representatives, investment representatives and equivalent entities.

(f) "securities processing businesses" means clearing agencies or securities transfer agents.

- (g) "securities market" means an exchange or other market, including an over-the-counter market, for trading equity securities, debt securities, options and other securities, that is recognized, regulated or supervised by the Authorities.
- (h) "laws or regulations" means the laws, regulations and regulatory policies applicable to matters in the jurisdictions of the Authorities concerning securities, including, without limitation:
- (i) insider trading;
  - (ii) misrepresentation or the use of fraudulent, deceptive, or manipulative practices in connection with the offer, purchase or sale of any security or the conduct of investment businesses;
  - (iii) the duties of persons to comply with reporting requirements or requirements relating to changes in corporate control;
  - (iv) acquisitions of and notifications of interests in securities (including powers to control the voting rights attached to securities and powers to dispose of securities), and associations and agreements in relation to securities and control over bodies corporate;
  - (v) the duties of persons, issuers or investment businesses to make full and fair disclosure of

- information relevant to investors;
- (vi) the duties of investment businesses, securities markets and securities processing businesses pertaining to their financial, operational or other requirements, and their duties of fair dealing in the offer and sale of securities and the execution of transactions and the conduct of their businesses; and
- (vii) the financial and other qualifications of those engaged in, or in control of, issuers, investment businesses or securities processing businesses.

**ARTICLE 2: ESTABLISHMENT OF A FRAMEWORK FOR CONSULTATIONS REGARDING MATTERS OF MUTUAL INTEREST**

The Authorities intend to engage in consultations about matters of mutual interest in order to enhance further cooperation and to protect investors by ensuring the stability, efficiency, and integrity of the securities markets of the United States and Norway; the coordination of market oversight; and the administration of United States and Norwegian securities laws or regulations. The purpose of such consultations is to assist in the development of mutually agreeable approaches for strengthening the securities markets of the United States and Norway, while avoiding, whenever possible, conflicts that may arise from the application of differing regulatory practices.

**ARTICLE 3: MUTUAL ASSISTANCE AND THE EXCHANGE OF INFORMATION****Section 1: Scope of Assistance**

1. The Authorities will provide the fullest mutual assistance within the framework of this Memorandum of Understanding. Such assistance will be provided to facilitate the enforcement of the laws or regulations applicable to securities markets and their members; the granting of licenses, waivers or exemptions for the conduct of investment businesses; the inspection or examination of investment businesses; and the conduct of investigations, litigation or prosecution in cases where information located within the jurisdiction of the requested Authority is needed to determine whether, or prove that, the laws or regulations of the State of the requesting Authority may have been violated. Such assistance will be provided without regard to whether the type of conduct described in the request for assistance would constitute a violation of the laws or regulations of the State of the requested Authority.

2. Assistance available under this Memorandum of Understanding includes, but is not limited to:

- (a) providing access to information in the files of the requested Authority;
- (b) taking the testimony of persons;
- (c) obtaining information and documents from persons; and
- (d) conducting compliance inspections or examinations of investment businesses, securities processing businesses and securities markets.

3. The Authorities recognize that they may not in all circumstances possess the legal authority to provide the assistance contemplated in this Memorandum of Understanding. Subject to such limitations of legal authority, the Authorities will use all reasonable efforts to recommend for approval by their respective national legislatures the legislation necessary to provide the assistance described in this Memorandum of Understanding.

#### **Section 2: General Principles**

1. This Memorandum of Understanding sets forth a statement of intent of the Authorities to establish a framework for mutual assistance and to facilitate the exchange of information between the Authorities to enforce or secure compliance with any laws or regulations, as that term is defined herein.

2. All requests for assistance pursuant to this Memorandum of Understanding shall be made and executed through the Authorities. The Authorities shall communicate directly with each other for the purpose of carrying out the provisions of this Memorandum of Understanding.

3. The signature of this Memorandum of Understanding does not prohibit either Authority from taking measures other than as provided herein to obtain information, evidence or documents located in the territory of another Authority necessary to ensure compliance with or enforcement of the laws or regulations of its

State, provided that such authority utilizes moderation and restraint in taking such measures.

In accordance with these principles:

- (a) each Authority may communicate from its own territory with any person in the territory of another Authority who voluntarily agrees to provide the information or documents requested; and
- (b) requests by an Authority for information that is available from any public source in the territory of another Authority may be communicated on an informal basis without compliance with the terms of this Memorandum of Understanding.

4. The provisions of this Memorandum of Understanding will not give rise to a right, directly or indirectly, on the part of any person other than the Authorities to obtain, suppress or exclude any information or to challenge the execution of a request for assistance under this Memorandum of Understanding.

5. The Authorities recognize the need and desirability of providing mutual assistance and exchanging information to assist each other in securing compliance with the laws or regulations of their respective States. The requested Authority may, however, deny assistance requested under this Memorandum of Understanding on the ground that:

- (a) provision of the assistance would violate the national or public interest; or

- (b) the request is not in accordance with the provisions of this Memorandum of Understanding.

**Section 3: 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.
2. A request for assistance will specify the following:
  - (a) a general description of both the subject matter of the request and the purpose for which the assistance or information is sought;
  - (b) a general description of the assistance, information, documents or testimony of persons sought by the requesting Authority;
  - (c) any information in the possession of the requesting Authority that might assist the requested Authority in identifying the persons or entities believed by the requesting Authority to possess the information sought, or the places where such information may be obtained;
  - (d) the legal provisions pertaining to the matter that is the subject of the request; and
  - (e) the desired time period for the reply.
3. An urgent request for assistance and a reply to such a request may be effected by summary procedures or by means of communication other than the exchange of letters, provided that they are confirmed in the manner prescribed in this Section.

**Section 4: Execution of Requests**

1. Access to information held in the files of the requested Authority will be provided upon request of the requesting Authority.

2. When requested by the requesting Authority, the testimony of persons involved, directly or indirectly, in the activities underlying the request, or holding information that may assist in carrying out the request, will be taken, and other evidence will be obtained, by the requested Authority. The requesting Authority may, in its discretion, request the taking of the testimony of specific persons.

3. The testimony of persons will be taken in the same manner and to the same extent as in investigations or other proceedings in the jurisdiction of the requested Authority. Notwithstanding any other provision of this Memorandum of Understanding, any person providing information or evidence as a result of a request made under this Memorandum of Understanding will be entitled to all the rights and protection of the laws of the jurisdiction of the requested Authority. Assertions regarding other rights and privileges arising exclusively pursuant to the laws of the jurisdiction of the requesting Authority will be preserved for consideration by the courts in the jurisdiction of the requesting Authority.

4. Notwithstanding paragraph 3 of this Section, when requested by the requesting Authority, testimony will be taken under oath and a transcript will be made. In addition, a representative of the requesting Authority may prescribe specific questions to be asked of any witness and, subject to approval by the requested authority, may be present at the taking of testimony.

5. When requested by the requesting Authority, an inspection or examination will be conducted of the books and records of an investment business or its custodian or agent, a securities market, or a securities processing business. In addition, a representative of the requesting Authority may be present at the inspection or examination and, subject to approval by the requested Authority, may participate in that inspection or examination.

6. In addition to participating in the taking of testimony or statements pursuant to paragraph 4 of this Section, or an inspection or examination pursuant to paragraph 5 of this Section, the requesting Authority may submit to the requested Authority a request, with reasons, that a person or persons designated by the requesting Authority be permitted to conduct the testimony of any person, or conduct an inspection or examination.

(a) The request may be granted, modified or denied by the requested Authority in its discretion;

(b) Where the requested Authority grants a request which specifies that the laws of the State of the requesting Authority require the opportunity for counsel for the

witness or any party to the proceeding to pose questions to the witness, the requested Authority will use its best efforts to ensure that such an opportunity will be given; and

- (c) Section 7 of this Article applies to the denial of a request referred to in this Section.

**Section 5: Permissible Uses of Information**

1. The requesting Authority may use the information furnished pursuant to this Memorandum of Understanding solely:

- (a) for the purposes stated in the request, including ensuring compliance with or enforcement of the laws or regulations of the requesting Authority, including those specified in the request and related provisions; and
- (b) for purposes within the general framework of the use stated in the request, including conducting a civil or administrative enforcement proceeding, assisting in a self-regulatory enforcement proceeding, assisting in a 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 Section, the requesting Authority first will inform the requested Authority of its intention and provide it the opportunity to oppose the utilization. If the requested Authority opposes such use of the information,

the Authorities agree to consult pursuant to Section 7 of this Article concerning the reasons for the opposition and the circumstances under which use of the information might otherwise be permitted.

**Section 6: Confidentiality of Requests and Information**

1. To the extent permitted by law, except for disclosures in accordance with Section 5 of this Article, and disclosures that are absolutely necessary to carry out the request:

- (a) each Authority will keep confidential requests made under this Memorandum of Understanding, the contents of such requests, and any other matters arising during the operation of this Memorandum of Understanding, including consultations between the Authorities and unsolicited assistance; and
- (b) the requesting Authority will keep confidential any information received pursuant to this Memorandum of Understanding.

2. Except as contemplated by Section 5 of this Article, the requesting Authority will not offer the information to, and will use its best efforts to ensure that it is not obtained by, any other person. Where appropriate, to further ensure the confidentiality of any information provided by a requested Authority in response to a request under this Memorandum of Understanding, the requested Authority shall in good faith determine and represent that public disclosure of the information

would violate its country's laws. Unless otherwise agreed, if any public body obtains such information, the requesting Authority will use its best efforts to ensure that such information is not used by that body in any way that involves disclosure to any other person.

3. The requesting Authority will notify the requested Authority of any legally enforceable demand for information prior to complying with the demand, and will assert such appropriate legal exemptions or privileges with respect to such information as may be available.

4. In response to a request by the requested Authority and to the extent permitted by law, as soon as the requesting Authority has terminated the matter for which assistance has been requested under this Memorandum of Understanding, it will return to the requested Authority all documents and copies thereof not already disclosed in proceedings referred to in Article 3, Section 5, and other material disclosing the contents of such documents, other than material that is generated as part of the investigative, deliberative or internal analytical processes of the requesting Authority, which may be retained.

5. Any document or any other material provided by a requested Authority in response to a request under this Memorandum of Understanding and any other material disclosing its content, other than material that is generated as part of the investigative, deliberative or internal analytical process of the requesting

Authority, will not become the property of the requesting Authority, and must be redelivered, upon demand, to the requested Authority without delay to the extent permitted by the laws of the jurisdiction of the requesting Authority; provided that such demand may be made only if the requested Authority has reason to believe that the information has been or is likely to be disclosed or used other than as contemplated by Article 3, Section 5 above.

**Section 7: Consultations Regarding Mutual Assistance Pursuant to this Memorandum of Understanding**

1. In any case of dispute over the meaning of any term used in this Memorandum of Understanding, the parties will define the terms herein in accordance with the relevant laws of the jurisdiction of the requesting Authority.

2. The Authorities will keep the operation of this Memorandum of 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 denial by one Authority of, or opposition by an Authority to, a request or proposal made by the other Authority pursuant to this Memorandum of Understanding;  
or

(b) a change in market or business conditions, or in the legislation governing the matters set forth in paragraph 1(h) of Article 1, or any other development that makes

it necessary or appropriate to amend or extend this Memorandum of Understanding in order to achieve its purposes.

3. The Authorities may agree on such practical measures as may be necessary to facilitate the implementation of this Memorandum of Understanding.

4. Any of the conditions of this Memorandum of Understanding may be amended, relaxed or waived by mutual agreement.

**Section 8: Unsolicited Assistance**

To the extent permitted by law, each Authority will use reasonable efforts to provide the other Authority with any information it discovers that gives rise to a suspicion of a breach, or anticipated breach, of the laws or regulations of the other Authority.

**Section 9: Costs of Investigation**

If it appears that responding to a request for assistance under this Memorandum of Understanding will involve substantial costs being incurred by the requested Authority, the requested Authority and the requesting Authority will establish a cost sharing arrangement before continuing to respond to such request for assistance.

**Section 10: Effective Date**

This Memorandum of Understanding will be effective from the date of its signature by the authorities.

**Section 11: Termination**

This Memorandum of Understanding will continue to have effect until 30 days after either Authority gives written notice to the other Authority of its intention to terminate the Memorandum of Understanding. If either Authority gives such notice, this Memorandum of Understanding will continue to have effect with respect to all requests for assistance that were made before the effective date of notification until the requesting Authority terminates the matter for which assistance was requested.

DATED this 24th day of September 1991

United States Securities  
and Exchange Commission

Norway Banking, Insurance &  
Securities Commission

by 

Richard C. Breeden  
Chairman

by 

Svein Aasmundstad  
Director General

APPENDIX A

CONTACT OFFICERS

United States Securities and Exchange Commission  
450 5th Street, N.W.  
Washington, D.C. 20549  
U.S.A.  
Attention: Director, Office of International Affairs

Tel.: (202) 272-2306  
FAX: (202) 504-2282

Norway Banking, Insurance & Securities Commission  
Postboks 100 Bryn  
0611 Oslo 6  
Norway  
Attention: Director General

Tel.: 47-2-65 29 30  
FAX: 47-2-63 02 26