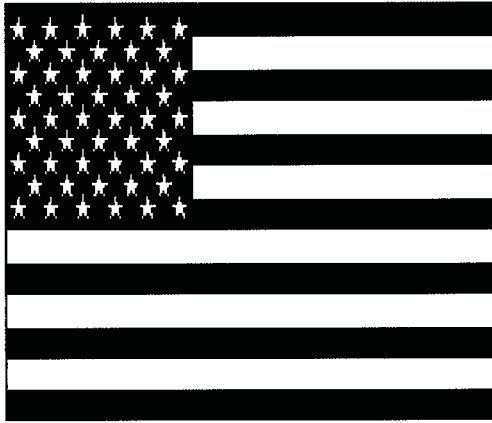


UNDERTAKING



**THE UNITED STATES SECURITIES
AND EXCHANGE COMMISSION**



**THE BELGIAN COMMISSION BANCAIRE
FINANCIERE ET DES ASSURANCES**

**ON CONSULTATION AND COOPERATION REGARDING
BELGIAN FIRMS THAT ARE MEMBERS OF
US CLEARING ORGANIZATIONS**

JUNE AND JULY 2006

**UNDERTAKING ON CONSULTATION AND COOPERATION REGARDING
BELGIAN FIRMS THAT ARE MEMBERS OF CLEARING ORGANIZATIONS
REGISTERED UNDER THE US FEDERAL SECURITIES LAWS**

PURPOSE

The Belgian Commission Bancaire Financiere et des Assurances (CBFA) is the sole prudential supervisor of credit institutions, financial intermediaries, and clearing organizations in Belgium, pursuant to the Law of 22 March 1993 on the legal status and supervision of credit institutions; the Law of 6 April 1995 on the legal status and supervision of investment firms, intermediaries and investment advisers; and Articles 22 and 23 of the Law of 2 August 2002 on the supervision of the financial sector and financial services.

The US Securities and Exchange Commission (SEC), established under the Securities and Exchange Act of 1934 (Exchange Act), administers and enforces the US federal securities laws, and oversees the US securities markets and persons acting in a professional capacity in those securities markets, including securities depositories and clearing organizations.

Section 17A of the Exchange Act directs the SEC, among other things, to facilitate the prompt, accurate, and safe clearance and settlement of securities transactions in the United States. Section 17A also requires clearing agencies to register with the SEC. In determining whether to admit foreign members, US registered clearing agencies have established conditions designed to ascertain whether foreign members are subject to appropriate legal and financial requirements comparable to domestic members, as well as information sharing requirements aimed at ensuring that the clearing agency and the Commission have the ability to obtain appropriate information on foreign members. Pursuant to their rules, procedures, or policies, US registered clearing organizations¹ generally require that a foreign firm, among other things, demonstrate the existence of an information sharing arrangement between its home country regulator and the SEC prior to admitting a foreign firm as a member of, or participant in, the clearing organization. This requirement is intended to ensure that the SEC has access to information for foreign and domestic firms that is comparable.

In this connection, the SEC and the CBFA (collectively, the Authorities) hereby enter into this Undertaking pursuant to which the SEC and CBFA express their intent to consult about matters

¹ For purposes of this Undertaking, "US Clearing Organization" means a clearing agency registered under Section 17A of the Exchange Act, or an entity granted an exemption from clearing agency registration under Section 17A of the Exchange Act.

of mutual concern related to Belgian firms² that are members of, or participants in, US clearing organizations. As specified in paragraph 2 below, the CBFA further expresses its intent to obtain and make available to the SEC, upon written request, certain information related to the oversight and financial condition of such firms. This Undertaking does not create any legally binding obligations, confer any rights, or supersede domestic laws.

This Undertaking is intended to complement, but does not alter, the terms and conditions of the following existing arrangements concerning cooperation in securities matters: (i) the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information, to which the SEC and CBFA are signatories and which covers information-sharing in the context of enforcement investigations; and (ii) the Understanding regarding Euroclear Bank's exemption from registration under the US federal securities laws between the SEC and the CBFA dated January 30, 2001.

COOPERATION REGARDING FIRMS

1. The SEC and CBFA recognize the importance of maintaining an open and informal dialogue on supervisory matters. Accordingly, the CBFA and the SEC intend to consult from time to time regarding issues of mutual concern related to Belgian firms that are members of, or participants in, US Clearing Organizations (hereinafter referred to as, Firms), consistent with, and as permitted by, the laws and regulations that govern the Authorities.
2. Upon written request, the CBFA undertakes to make available to the SEC the requested information in its files related to a Firm and to obtain and provide to the SEC other relevant information, including information that a Firm is required to make available to a US Clearing Organization, pursuant to the rules and procedures of such organization. Such information may include, but is not limited to:
 - a. a description of the corporate legal and management structure of a Firm, its business activities and the legal and regulatory environment in which it operates;
 - b. annual and interim financial statements, including audited financial statements;
 - c. current financial and operational information, including evidence of compliance with the SEC's and the US clearing organization's financial (including capital requirements) and operational requirements;
 - d. trading information in securities cleared or settled through a US Clearing Organization;

² For purposes of this Undertaking, "Firm" means:

- a. Natural person, unincorporated association, partnership, trust, investment company or corporation subject to the oversight of the CBFA, acting in the capacity of a bank, broker-dealer, central counterparty, central securities depository, international central securities depository, investment adviser, or transfer agent;
- b. who has its headquarters in Belgium; and
- c. who, alone or together with one or more related entities, conducts securities, derivatives or banking business in the United States.

- e. any books or records to the extent that they relate to services rendered by a US Clearing Organization;
 - f. principal market risks and credit risk exposures, including major counterparty exposures;
 - g. regulatory reports and filings that a firm is required to submit to the CBFA, including financial, capital adequacy, legal and regulatory compliance, and operational reports and filings;
 - h. any securities enforcement or other disciplinary action, including criminal, civil or administrative actions, taken in Belgium against a Firm; and
 - i. any other information relevant to the financial or operational condition of a Firm.
3. Upon written request, the SEC undertakes to make available to the CBFA the requested information in its files related to:
- a. the regulatory framework of a US Clearing Organization, to which a Belgian Firm is, or is seeking to become, a member or participant; and
 - b. the securities transactions processed by a US Clearing Organization for a Belgian Firm that is a member of, or participant in, that US Clearing Organization.
4. Written requests under paragraphs 2 and 3 should specify, without limitation, the relevant applicable laws and regulations, the subject matter of the request, the specific information that is sought, and the reasons why this information may be of assistance.
5. The Authorities intend to maintain a current list of Firms and US Clearing Organizations affected by this Undertaking (see Appendix A). Authorities should endeavor to inform one another of additions or deletions to this list as soon as practicable.
6. In Emergency Situations,³ the Authorities will endeavor to notify each other of the Emergency Situation and communicate information to the other as would be appropriate in the particular circumstances, taking into account all relevant factors, including the status of efforts to address the Emergency Situation. During Emergency Situations, requests for information may be made in any form, including orally, provided such communication is confirmed in writing.
7. *Permissible Uses of Information.*
- (a) The Authorities may use non-public information obtained under this Undertaking solely for seeking to ensure compliance with the Authorities' domestic laws and regulations thereunder, including the rules and procedures of any US Clearing Organization.
 - (b) The Authorities recognize that while information is not to be gathered under the auspices of this Undertaking for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement. In cases where an Authority seeks to use information obtained under this MOU for enforcement purposes,

³ "Emergency Situation" means the occurrence of an event that could materially impair the financial or operational condition of a Firm.

including in conducting investigations or bringing administrative, civil or criminal proceedings, prior notification must be given to the other Authority. Once notification is provided, use of the information for enforcement purposes will be subject to the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information, to which both the SEC and CBFA are signatories.

- (c) Before using non-public information furnished under this Undertaking for any purpose other than that stated in paragraph 7(a) and (b), each authority will first obtain the consent of the other Authority.

8. *Confidentiality.*

- (a) Except for disclosures in accordance with paragraph 7, each Authority intends to keep confidential, to the extent permitted by law, information shared under this Undertaking, requests made under this Undertaking, the contents of such requests, and any other matters arising under this Undertaking.
- (b) To the extent possible, each Authority intends to notify the other of any legally enforceable demand for non-public information furnished under this Undertaking prior to compliance with the demand, and assert all appropriate legal exemptions or privileges with respect to such information as may be available.
- (c) The Authorities intend that the sharing or the disclosure of non-public information, including but not limited to deliberative and consultative materials, pursuant to this Undertaking, will not constitute a waiver of privilege or confidentiality of such information.

9. *Amendment.* In order to enhance the quality of cooperation, from time to time representatives of the Authorities intend to discuss the scope and operation of this Undertaking.

10. *Termination.* Cooperation in accordance with this Undertaking will continue until the expiration of 30 days after either Authority gives written notice of its intent to terminate to the other Authority. If either Authority gives such notice, cooperation will continue with respect to all requests for assistance that were made under the Undertaking before the effective date of notification until the Authority making the request terminates the matter for which assistance was requested. In the event of termination of this Undertaking, information obtained under this Undertaking will continue to be treated in the manner prescribed under paragraphs 7 and 8.

11. Appendix B contains a list of contact officers at the SEC and CBFA for purposes of this Undertaking.

Signed



Christopher Cox
Chairman
For the United States Securities and Exchange Commission

Date June 29, 2006



Eddy Wymeersch
Chairman
For the Belgian Commission Bancaire Financiere et des Assurances

Date July 6, 2006