

CMF

CONSEIL DES MARCHÉS FINANCIERS

LE PRÉSIDENT

GRF	COMISSÃO DO MERCADO DE VALORES MOBILIÁRIOS
	29 DEZ. 1999
	REG. N.º 73.584
	PROC. N.º 5769/GRF

Mr. José Nunes Pereira
Chairman
**CMVM – Comissão do Mercado de
Valores Mobiliários**
Av. Fontes Pereira de Melo, 21
1056-801 Lisboa
PORTUGAL

Paris, 13 December 1999

Implementing a Mechanism for the Exchange of Information between the **CONSEIL DES MARCHÉS FINANCIERS (CMF)** and the **COMISSÃO DO MERCADO DE VALORES MOBILIÁRIOS (CMVM)** concerning Credit Institutions and Investment Companies with head-office in Portugal or in France that through Remote Access intend to carry out the Registration of De-materialised Securities Service through the Filiation in the Clearing and Settlement System of Financial Services, organised and functioning in another State.

Dear Mr. Nunes Pereira,

The ever-increasing internationalisation of securities operations and other financial instruments deriving namely from the information technology advancement and from the need for investment portfolio diversification implies that the supervisory authorities of the financial sector avail themselves of co-operation and mutual assistance mechanisms in order to guarantee the effective carrying out of supervisory functions in the respective financial markets.

This letter confirms the intention of the CMF in supplying the CMVM with the necessary assistance and information for the performance of supervisory functions of the credit institutions and investment companies with head-office in France who carry out the activity related with the rendering of the services of registration, control, clearing and settlement of financial systems integrated in the Portuguese clearing and settlement system of financial instruments through remote access under the freedom to provide services regime, as



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mentioned in Annex A, which the CMF undertakes to up-date upon receipt of the CMVM's notifications.

Scope of Assistance

The CMF undertakes to verify and inform the CMVM, when it is requested, that the credit institutions and the investment companies, with head-office in France that intend to affiliate themselves in remote access regime, in the Portuguese clearing and settlement system of financial instruments, satisfy the technical and operational conditions foreseen in annex B of the present letter.

The CMF undertakes to inform the CMVM, when it is requested, of the observance of the conditions verified in the terms of the previous paragraph.

The CMF undertakes to obtain and transmit to the CMVM, when it is requested, all the necessary information for the performance of its supervisory functions, as from the moment in which a credit institution or investment company, with head-office in France is carrying out the activity in remote access regime, as affiliates in the Portuguese clearing and settlement system of financial instruments.

Actions to be Developed

The assistance afforded by this mechanism implies the acquirement of information/documents, attainment of investigations, gathering of statements, *in loco* verifications of the aimed companies' premises, as well as, ultimately, other type of actions that reveal themselves to be necessary regarding the specific case and that, in a case-by-case basis, to agreed between the CMF and the CMVM.

Execution of Requests

The requests for assistance must be made in writing and must be sent to the contact person at the requested Authority mentioned in annex C.

The request for assistance must contain the following:

- a) a general description of the information sought by the requesting Authority;
- b) a general description of the subject matter of the request and for what purpose the information is sought;
- c) if the case, the regulations that are suspected to have been violated, as well as the list of persons or entities that the requesting Authority believes to have the sought information;
- d) The time period and form sought for the reply, and where appropriate, the urgency thereof.



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Confidentiality

The requesting Authority may only use the received information for the purposes mentioned in the request, including ensuring compliance with the enforcement of the laws and regulations specified in the request and related provisions.

Before using the information furnished for any purpose other than those stated in the request, the requesting Authority must first inform the requested Authority of its intention and provide it with the possibility to oppose the use of it.

Consultation

The CMF and the CMVM intend to consult each other periodically to infer on the adequacy and effectiveness of the measures foreseen in this memorandum and, where appropriate, for the up-dating of one or more elements mentioned in the annexes of the present letter.

If any serious event alters in any way the activity or service of the member, CMF or CMVM will inform as soon as possible the other party of the occurrence of this event.

Jean-François Lepetit
Chairman
Conseil des Marchés Financiers

CMF

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Annex A

Credit Institutions and investment companies with head-office in France affiliated in the Portuguese clearing and settlement system of financial instruments:

BANQUE PARIBAS
3, rue d'Antin
75002 Paris
France



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Annex B

Scope of Assistance

By way of guarantying that the credit institutions and investment companies with head-office in France fulfil the technical and operational conditions for the purpose of the affiliation in the Portuguese securities clearing and settlement system, foreseen in article 69 of the Código do Mercado de Valores Mobiliários (Portuguese Securities Market Code), it may be necessary for the CMF to verify *in loco* the following elements:

1. the existence of the adequate means of telecommunications, as well as the computer application and the respective data-base, in which the securities are registered and deposited, compatible (in terms of software), with the mentioned service;
2. the existence of contingency planning and security systems, namely regular back-ups and safe-guard of these back-ups;
3. regarding the application of the registration and deposit of securities, the possibility of:
 - 3.1. registering the constitution, transmission, modification and extinction of fruition of the securities registered, in accordance to sub-paragraph j) of paragraph 2 of article 56 of the Código MVM;
 - 3.2. registering the constitution and extinction of the pledge or other charges, in accordance to was if mentioned in sub-paragraph l) of paragraph 2 of article 56 of the Código MVM;
 - 3.3. the blockage of the securities in accordance to paragraph 2 of article 54 of the Código MVM;
 - 3.4. presentation of securities bank account statement if these may be issued at any time with the activity that have taken place between two specific dates, with the indication of the position in the beginning and end of these, as mentioned in Regulation 1/98 of the CMVM.
4. The identification, in accordance to Instruction 96/4 of the CMVM, of the own- portfolio accounts opened at the CVM (this identification must have a 9 digits), as well as the subsequent alterations regarding the identification of these accounts.
5. The identification of the account at the CVM that is used for the purposes of Instruction 97/4 of the CMVM, which will be used for the settlement of operations deriving from errors or mistakes which have taken place during the trading activity or in which delays have occurred during the necessary transfers for the settlement of the operations in question, which must be made by mentioning the complete code (composed of nine digits).



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6. In the cases that an operation made on the exchange (including the Special Market for Block Trading) is specified in the account at the CVM regarding the a credit institution or an investment company with head-office in France and there is no complete settlement, the CMVM will have to possess the information referred to in Annex 2 of the Instruction of the CMVM, i.e.:
- identification of the operations;
 - date of the operation on the exchange or the MEOG (Special Market for Block Trading)
 - code and name of the security;
 - amount;
 - market in question
 - justification of the occurred, as well as other elements that the credit institution of investment company may deem as necessary in mentioning;
 - description of the documents attached: statement of the registration or deposit of the securities including the operation in question and the operations immediately prior to those.

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Annex C

Contact Persons

Mr. Bruno Gizard
CMF - Conseil des Marchés Financiers
31, rue St. Augustin
75002 Paris

Mr. João Luiz Figueira
CMVM – Comissão do Mercado de Valores Mobiliários
Av. Fontes Pereira de Melo, 21
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