



רשות ניירות ערך
ISRAEL SECURITIES AUTHORITY

Protocol Concerning Cooperation
in the Administration and Enforcement
of Futures Laws
between the
Israel
Securities Authority
and the
United States
Commodity Futures Trading Commission

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1. INTRODUCTION

1.1 The Israel Securities Authority (“ISA”) and the United States Commodity Futures Trading Commission (“CFTC”) acknowledge the importance of international regulatory co-operation and share the goal of promoting market and financial integrity and investor protection. These arrangements are intended to enhance the Authorities’ working relationship.

1.2 The ISA was established in 1968 as an independent regulatory agency of the Israel Government and has regulatory responsibility for enforcing the Israeli securities laws.

The ISA’s mission is to protect the interests of the public investing in securities.

To achieve this mission, the ISA engages in a wide range of activities, including market surveillance, and investigations of violations of Israeli law, as set forth in the Securities Law 5728 – 1968,

1.3 The CFTC was established in 1974 as an independent agency with the mandate to regulate commodity futures and option markets in the United States.

The mission of the CFTC is to protect market users and the public from fraud, manipulation, and abusive practices related to the sale of commodity and financial futures and options, and to foster open, competitive, and financially sound futures and option markets. Through effective oversight, the CFTC enables the futures markets to serve the important function of providing a means for price discovery and offsetting price risk.

2. DEFINITIONS

“**Authorities**” means the CFTC and the ISA;

“**CFTC**” means the United States Commodity Futures Trading Commission;

“**ISA**” means the Israel Securities Authority;

“**Futures Contract**” means a futures or option transaction regulated or subject to regulation by the authorities whether transacted over-the-counter or on or subject to the rules of an exchange or market.

“**Jurisdiction**” means the country, state or territory in which the CFTC or the ISA have legal authority, power and/or jurisdiction;

“**Laws, Regulations, and/or Requirements**” means the provisions of the laws of the United States and/or Israel, the regulations promulgated thereunder, and other regulatory requirements that fall within the jurisdiction of the Authorities concerning Futures Contracts.

“**Person**” means a natural person, body corporate, partnership, unincorporated association, or trust;

“**Requested Authority**” means the Authority receiving a request;

“**Requesting Authority**” means the Authority making a request.

3. SCOPE AND INTENTION

- 3.1 This Protocol Concerning Cooperation in the Administration and Enforcement of Futures Laws between the ISA and the CFTC (“Protocol”) sets forth the Authorities' intent with regard to mutual assistance and the exchange of information for the purpose of enforcing and securing compliance with the respective Laws, Regulations and/or Requirements of the jurisdictions of the Authorities. The provisions of this Protocol are not intended to create legally binding obligations or supersede domestic laws or regulations. Nothing in this provision shall obligate the Requested Authority to furnish information and documents in contravention of its own domestic laws and regulations.
- 3.2 This Protocol will promote the integrity, efficiency and financial soundness of licensed entities by improving effective regulation, enhancing the supervision of cross-border transactions, and creating an environment conducive to the prevention of fraudulent and other prohibited practices in Israel and the United States.
- 3.3 The Authorities will assist each other to the full extent permitted by the Laws, Regulations and/or Requirements of their respective jurisdictions. Such assistance will not be limited to information concerning institutions authorised, licensed, registered or recognised in the United States and/or Israel. Assistance will include:-
 - a) investigation and enforcement of Laws, Regulations and/or Requirements pertaining to the respective functions of the Authorities; and
 - b) regulation and supervision of Licensed Entities.
- 3.4 Assistance under this Protocol includes, but is not limited to:
 - a) providing access to information in the files of the Requested Authority;
 - b) taking the statements of persons; and
 - c) obtaining information and documents from persons.

4. REQUESTS FOR ASSISTANCE

- 4.1 To facilitate communication and ensure continuity, Requests will be made in writing and signed by the Chairman of the Requesting Authority or any other persons authorised by law to do so and addressed to the contact officers designated by each Authority. The initial contact officers are set out in Appendix A.
- 4.2 A request for assistance will include the following:
- a) a description of the facts underlying the investigation that are the subject of the request, and the purpose for which the assistance is sought;
 - b) a description of the assistance sought by the Requesting Authority and why the information sought will be of assistance;
 - c) any information known to, or in the possession of, the Requesting Authority that might assist the Requested Authority in identifying either the Persons believed to possess the information or documents sought or the places where such information may be obtained;
 - d) any indication of any special precautions that should be taken in collecting the information due to investigatory considerations, including the sensitivity of the information; and
 - e) the Laws and Regulations that may have been violated and that relate to the subject matter of the request.
- 4.3 In urgent circumstances, the Requested Authority will accept a request for assistance by electronic mail or facsimile. Such urgent communications must be confirmed in writing within five business days.

5. UNSOLICITED INFORMATION

To the extent permitted by Laws, Regulations, and/or Requirements of its respective jurisdiction, 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 an anticipated breach of the Laws, Regulations, and/or Requirements applicable in the jurisdiction of the other Authority.

6. PERMISSIBLE USES OF INFORMATION

- 6.1 The Requesting Authority may use non-public information and non-public documents furnished in response to a request for assistance under this Protocol solely for:
- a) the purposes set forth in the request for assistance, including ensuring compliance with the Laws, Regulations and/or Requirements related to the request; and
 - b) a purpose within the general framework of the use stated in the request for assistance, including conducting a civil or administrative enforcement proceeding, assisting in a criminal prosecution, or conducting any investigation for any general charge applicable to the violation of the

provision specified in the request where such general charge pertains to a violation of the Laws, Regulations and/or Requirements administered by the Requesting Authority. This use may include enforcement proceedings which are public.

- 6.2 If a Requesting Authority intends to use information furnished under this Protocol for any purpose other than those stated in Paragraph 6.1, it must obtain the consent of the Requested Authority.

7. CONFIDENTIALITY

- 7.1 Each Authority will keep confidential requests made under this Protocol, the contents of such requests, and any matters arising under this Protocol, including consultations between or among the Authorities, and unsolicited assistance. After consultation with the Requesting Authority, the Requested Authority may disclose the fact that the Requesting Authority has made the request if such disclosure is required to carry out the request.
- 7.2 The Requesting Authority will not disclose non-public documents and information received under this Protocol, except as contemplated by paragraph 6 or in response to a legally enforceable demand. In the context of a civil or administrative enforcement proceeding, disclosure may be made solely in such a proceeding to which the Requesting Authority or the government of the Requesting Authority is a party. In the event of a legally enforceable demand, the Requesting Authority will notify the Requested Authority prior to complying with the demand, and will assert such appropriate legal exemptions or privileges with respect to such information as may be available. The Requesting Authority will use its best efforts to protect the confidentiality of non-public documents and information received under this Protocol.

8. RIGHTS OF REQUESTED AUTHORITY

- 8.1 The Requested Authority may deny requests for assistance under the Protocol:
- a) where the request would require the Requested Authority to act in a way that would violate the laws of the jurisdiction of the Requested Authority;
 - b) where the request is not in accordance with this Protocol;
 - c) on grounds of national sovereignty, public interest or essential national interest; or
 - d) where a criminal proceeding has already been initiated in the jurisdiction of the Requested Authority based upon the same facts and against the same persons, or the same persons have already been the subject of final punitive sanctions on the same charges by the competent authorities of the jurisdiction of the Requested Authority, unless the Requesting Authority can demonstrate that the relief or sanctions sought in any proceedings initiated by the Requesting Authority would not be of the same nature or duplicative of any relief or sanctions obtained in the jurisdiction of the Requested Authority.

- 8.2 Where the Requested Authority denies or opposes a request for assistance, or where assistance is not available under the law of the jurisdiction, the Requested Authority will provide the reasons why it is not granting the assistance.
- 8.3 The Authorities recognise that this Protocol does not limit or enhance their respective powers to investigate or gather information or take any other measures.

9. CONSULTATION

- 9.1 The Authorities will consult each other on an on-going basis to enhance regulatory co-operation, improve the operation of the Protocol and resolve any matters that arise. The Authorities will inform one another of the adoption of domestic measures that may affect their respective Authority's ability to provide assistance under this Protocol.
- 9.2 The Authorities may take practical measures necessary to facilitate the implementation of the Protocol. The Protocol may be amended or modified by mutual consent. Any amendment or modification of this protocol shall be made according to the procedure necessary in the jurisdiction of each Authority.

10. COSTS OF INVESTIGATION

If the cost of fulfilling a request is likely to be substantial, the Requested Authority may, as a condition of agreeing to give assistance under this Protocol, require the Requesting Authority to make a contribution to costs.

11. EFFECTIVE DATE AND TERMINATION

- 11.1 Cooperation in accordance with this Protocol will have effect as of the date of its signing by the Authorities.
- 11.2 Cooperation and assistance in accordance with this Protocol will continue until the expiration of 30 days after any Authority gives written notice to the other Authority of its intention to discontinue cooperation and assistance hereunder. If any Authority gives a termination notice, cooperation and assistance in accordance with this Protocol will continue with respect to all requests for assistance that were made or information provided before the effective date of notification (as indicated in the notice but no earlier than the date the notice is sent) until the Requesting Authority terminated the matter for which assistance was requested. The provisions of this Protocol concerning confidentiality will continue thereafter with respect to information in the possession of the Requesting Authority.

Done on _____ 2006, which corresponds to the _____ day of _____ 5766, in duplicate in Hebrew and English, all texts being equally authentic.

[signature page follows]

[Signature page of the **Protocol Concerning Cooperation in the Administration and Enforcement of Futures Laws** between the Israel Securities Authority and the United States Commodity Futures Trading Commission]

FOR THE ISRAEL SECURITIES AUTHORITY

.....
Moshe Tery, Chairman

FOR THE U. S. COMMODITY FUTURES TRADING COMMISSION

.....
Reuben Jeffery III, Chairman

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