

MEMORANDUM OF UNDERSTANDING

**BETWEEN THE FINANCIAL ANALYSIS UNIT (FAU)
OF THE REPUBLIC OF CHILE**

**AND THE KOREA FINANCIAL INTELLIGENCE UNIT (KoFIU)
OF THE REPUBLIC OF KOREA**

**CONCERNING COOPERATION IN THE EXCHANGE OF FINANCIAL
INTELLIGENCE RELATED TO MONEY LAUNDERING**

The KoFIU and the FAU, hereafter referred to as “the Authorities”, desire, in a spirit of cooperation and mutual interest, to facilitate the prevention and detection of money laundering and also to facilitate the analysis and investigation of persons or companies suspected of criminal activity related to money laundering.

To those ends, they have reached the understandings set forth below:

1. Scope of Cooperation

- a. The Authorities, on the basis of reciprocity, shall cooperate to assemble, develop and analyze information in their possession, concerning financial transactions suspected of being related to money laundering, or criminal activities connected with money laundering. To that end, the Authorities will exchange spontaneously or upon request available financial intelligence that may be relevant to the investigation by the Authorities into financial transactions suspected of being related to money laundering and the persons or companies involved.
- b. The Authorities will also cooperate in the areas of staff training and the exchange of general information regarding money laundering and criminal activities connected with money laundering, and information about trends and typologies in money laundering.

2. Requests for Financial Intelligence

The requesting authority should disclose to the requested authority at a minimum the reason for the request, the purpose for which the information will be used and enough information to enable the receiving authority to determine whether the request complies with its domestic law.





3. Uses of Financial Intelligence

- a. Financial Intelligence exchanged between the Authorities may be used only for the specific purpose for which the financial information was sought or provided.
- b. The receiving authority may not transfer financial intelligence shared by a disclosing authority to a third party, nor make use of the financial intelligence in an investigative, prosecutorial or judicial purpose without the prior consent of the disclosing Authority.
- c. It is understood that information obtained in accordance with this Memorandum can be used only when related to money laundering originated from specific categories of criminal activity, enumerated in Annex I for the Republic of Korea and Annex II for the Republic of Chile, as well as referred to the perpetration of the criminal activities precedent to money laundering established in the mentioned annexes. In this last case, the suspicion that money laundering is taking place is required. The Parties undertake to keep the annexes up to date in case of change in the relevant national legislation.

4. Confidentiality of Financial Intelligence

The financial intelligence acquired in application of this Memorandum and the fact that the information was provided should be kept confidential. It should be protected by at least the same confidentiality as provided by the national legislation of the receiving Authority for similar information from national sources.

5. Refusal of Providing Financial Intelligence

The Authorities are under no obligation to give assistance or provide information, if (i) the requested Authority determines that release of the information or documents requested may unduly prejudice an investigation or proceeding in the country of the requested Authority or (ii) judicial proceedings have already been initiated concerning the same facts as the request is related to, or (iii) provision of such information would be likely to prejudice the sovereignty, security, national interest or other essential interests of the country of the requested Authority.

6. Working Meetings and Consultations

If necessary, the representative of the Authorities will hold working meeting and consultations in order to discuss how to reinforce the cooperation within this Memorandum, and make it more efficient.



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The Authorities will jointly arrange, consistent with the legislation of their respective countries, for acceptable procedures of communication and will consult each other with the purpose of implementing this Memorandum.

7. *Official Language*

Communication between the Authorities will take place in English.

The English text of this Memorandum, being the agreed authentic text, done in two originals, and each Authority taking the responsibility for translating this Memorandum into any other language.

8. *Effective date; Amendment; Termination*

- a. This Memorandum will become effective upon signature by the Authorities.
- b. This Memorandum may be amended at any time, in writing, as mutually arranged by the Authorities.
- c. Either Party may terminate this Memorandum of Understanding by 30 days notice in writing to the other Party.

Signed:

Jae-Han Ryu
Commissioner
Korea Financial Intelligence Unit
Republic of Korea

Signed:

Víctor Ossa
Director
Financial Analysis Unit
Republic of Chile

Date: 30th June / 2005

Date: June 30, 2005



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ANNEX I

Money laundering is criminalized according to the Proceeds of Crime Act (POCA, 2001), the Act on Special Cases Concerning the Prevention of Illegal Trafficking in Narcotics, etc. (1995) and the Act on Control of Narcotics, etc (2000). POCA criminalizes money laundering related to serious crimes such as embezzlement, bribery, fraud and organized crimes, and the Act on Special Cases Concerning the Prevention of Illegal Trafficking in Narcotics, etc. criminalizes money laundering related to drug crime.

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ANNEX II

**CRIMINAL ACTIVITIES PRECEDENT TO MONEY LAUNDERING IN CHILE
(LAW 19,913 OF DECEMBER 18th, 2003)**

It shall be punished with imprisonment and a fine

a) The one who in any manner hides or conceals the illegitimate origin of certain goods, knowing that they originate, directly or indirectly, from the perpetration of acts which constitute any of the criminal offenses contemplated in the following laws:

- Law No. 20,000 (illicit traffic of narcotics and psychotropic substances)
- Law 18,314 (terrorist conducts)
- Law No. 17,798, Section 10 (control of weapons)
- Law No. 18,045, Title XI, Securities and Capital Market (to provide false information to Securities and Capital Market Supervisory Agencies, Stock Exchange, or the public; the public bidding of wrongfully registered securities; to act as stockbroker, securities agent or capital market risk advisor, without being registered; to use or provide classified information for own benefit; to use for own benefit third party securities; to hide or destroy security intermediaries accounting records; the diffusion of false information to the market, etc.)
- Decree with Force of Law No. 3 of 1997 of the Ministry of Finance, Title XVII, General Banking Act; (to provide false information regarding the property or capital conformation of a Bank or present adulterated balance sheets to the Banking Supervisory Institutions; to alter data in balance sheets, accounting books or other documents of an entity subject to supervision by the Banking Supervisory Institutions; to omit to record transactions that may affect the supervised entity's accountability or assets; to obtain loans having provided false or incomplete information regarding identity, assets, or other information for the purpose of obtaining such loans, etc)
- Criminal Code,
 - paragraphs 4, 5, 6 and 9 of Title V, Book II (malfeasance, embezzlement of public wealth, fraud, bribery, illegal levies, etc)
 - Sections 141, 142, 366 *quater*, 367 and 367 *bis* (kidnap, to facilitate or promote infant prostitution, statutory rape or sexual offense, to facilitate or promote the coming in or out of the country of prostitutes, etc.)

b) The one who acquires, possesses, keeps or uses the above-referenced properties, with the intention of making a profit out of it, when at the time of receiving the properties has been aware of their illegitimate origin.

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