

MEMORANDUM OF UNDERSTANDING
Between
Commissariat aux Assurances (CAA)
And
Financial Services Commission (FSC)

Art. 1 Preamble

With the increasing integration of financial markets and the growing number of internationally active insurance companies there is an increased need for mutual cooperation and information exchange between insurance industry supervisors;
The Signatory Authorities to this Memorandum of Understanding (MoU) on cooperation and information exchange have reached the understanding in this memorandum recognising that:

- practical arrangements concerning cross-border cooperation and information exchange are essential not only in crisis situations, but also in insurance industry supervisors' day-to-day business, especially given their significant role in preserving financial stability;
- the ability to share information and provide assistance requires a high standard of confidentiality protection; and
- it is important to acknowledge and emphasise observance of the IAIS Insurance Core Principles (ICPs).

Art. 2 Definitions

For the purposes of this MoU:

1. "Signatory Authority" means the CAA and the FSC. The Signatory Authorities are listed in Annex A.
2. "CAA" means the Luxembourg supervisory and regulatory authority of the insurance and reinsurance sector, such as disclosed in Annex A to this MoU.
3. "FSC" means the authority responsible for the regulation, supervision and inspection of all financial services in Gibraltar, such as disclosed in Annex A to this MoU.
4. "Requesting Authority" means the authority making a request under this MoU.
5. "Requested Authority" means the authority to whom a request is made under this MoU.
6. "Insurance Company" means insurer, reinsurer and (re)insurance group or a part thereof.
7. "Regulated Entity" means any company or other person engaged in insurance activities subject to the supervision of a Signatory Authority or applying for a license to provide such services.
8. "Person" means a natural person, legal entity, partnership or unincorporated association.
9. "Applicable Law" means any laws, regulation or requirement applicable in the jurisdictions of Signatory Authorities relevant to insurance supervision.
10. "Confidential Information" means any information regarded as confidential by the domestic Applicable Law in the jurisdictions of Signatory Authorities.
11. "AML / CFT" means Anti Money Laundering and Combating the Financing of Terrorism.

Art. 3 Objective and Scope

1. The objective of this MoU is to establish a formal basis for cooperation and information exchange between the Signatory Authorities regarding the supervision of Insurance Companies where cross-border aspects arise.
2. It includes requesting and providing information on operations of Insurance Companies supervised by the Signatory Authorities.
3. This MoU shall cover all issues related to the supervision of Insurance Companies such as licensing, ongoing supervision and winding-up processes (where necessary).
4. Beyond the licensing, ongoing supervision and winding-up of Insurance Companies, this MoU shall also be applicable to the supervision of other Regulated Entities such as insurance intermediaries, and to AML / CFT matters, in such cases where the Requesting and Requested Authority have those responsibilities.
5. The provisions of this MoU are not intended to create any legally binding obligations or to modify or supersede any jurisdictional law. Nor does this MoU create any directly or indirectly enforceable rights.
6. This MoU does not affect any provisions under other multilateral or bilateral agreements.
7. This MoU does not affect the freedom of the Signatory Authorities to cooperate and exchange information on an informal basis or beyond the scope of this MoU.

Art. 4 Principles

1. The Signatory Authorities acknowledge their ability to obtain and provide information and agree on the need to enhance their cooperation and exchange of information on cross-border aspects to carry out their supervisory responsibilities.
2. Subject to domestic Applicable Law, the Signatory Authorities under this MoU will provide each other with the fullest assistance possible consistent with their regulatory functions. They will consider requests from one another seriously and reply without undue delay.
3. Signatory Authorities rely on each other's compliance with the strict confidentiality regime as set out in Art. 5 and Annex B which each of them has confirmed before acceding to this MoU.
4. Signatory Authorities agree that any passing on to third parties of Confidential Information received under this MoU will require prior explicit consent from the Requested Authority.
5. Where Confidential Information is involved, the Requested Authority shall make its own judgement and decide in its sole discretion whether or not to disclose Confidential Information on a case-by-case basis.
6. Signatory Authorities will only make requests under this MoU where they have a legitimate interest in information about Regulated Entities. Requests shall be addressed primarily to the Supervisory Authority with the greatest measure of regulatory responsibility for the Regulated Entity.
7. Signatory Authorities may provide information, including Confidential Information, on their own initiative subject to the Confidentiality Regime of this MoU.

Art. 5 Valid Purpose and Confidentiality

1. It is a valid purpose under this MoU for a Requesting Authority to seek information relevant to its lawful supervision of a Regulated Entity which is subject to the supervision and responsibilities of the Requested Authority.
2. It is not a valid purpose under this MoU for a Requesting Authority to seek information on individuals unless the request is related to the fulfilment of supervisory functions.
3. The existence and content of any request for information made under this MoU will be treated as confidential by both the Requested and the Requesting Authorities unless both Authorities agree otherwise.
4. Any Confidential Information exchanged belongs to, and will remain the property of, the Requested Authority. It shall be subject to professional secrecy rules at least equivalent to the confidentiality regime outlined in Annex B.
5. The Requested Authority will decide according to its domestic Applicable Law whether or not information requested and provided under this MoU qualifies as confidential.
6. The Requesting Authority will use Confidential Information received under this MoU only for the purposes specified in the request.
7. The Requesting Authority will take all actions necessary to preserve, protect and maintain the confidentiality of information received from a Requested Authority.
8. The Requesting Authority will restrict access to Confidential Information received from a Requested Authority to those persons working for the Requesting Authority or acting on its behalf who:
 - a. are subject to the Requesting Authority's professional secrecy requirements;
 - b. are under its direct supervision and control; and
 - c. have a need for such information that is consistent with, and directly related to, the purposes for which the information was requested.
9. Where it becomes necessary for a Requesting Authority to share Confidential Information provided under this MoU with other local, regional, state, federal or international law enforcement or regulatory officials who have authority over the Regulated Entity, the Requesting Authority shall:
 - a. notify the Requested Authority promptly;
 - b. obtain prior consent; and
 - c. prior to passing on the information, ensure that each recipient agrees to maintain the confidential status of the information provided and has the legal authority to do so.
10. Where Confidential Information provided under this MoU is subject to a legally enforceable request in the jurisdiction of the Requesting Authority, the Requesting Authority will notify the Requested Authority prior to complying with such demand. Where consent to passing on is not given, the Requesting Authority will use all reasonable legal means to resist such a demand or protect the confidentiality of the information.
11. Such legal means include asserting such appropriate legal exemptions or legal privileges with respect to that information as may be available and affording the Requested Authority the opportunity to take whatever action it deems appropriate to preserve, protect and maintain the confidential nature of the information provided. This includes consenting to any application by the Requested Authority to intervene in any action to preserve the confidentiality of Requested Authority Confidential Information.

Art. 6 Procedures

1. To facilitate an appropriate and timely response, any request made under this MoU shall be made in writing covering at least the following elements:
 - a. the field of supervision concerned and the purpose for which the information is sought;
 - b. details of the request comprising information on the person or entity concerned, such as a description of the facts underlying the request, specific questions to be asked and an indication of any sensitivity about the request;
 - c. a statement as to whether details provided by the Requesting Authority should be confirmed or verified and if so what kind of confirmation or verification is sought;
 - d. a statement on whether, to whom and for what reasons Confidential Information is likely to be passed on; and
 - e. the desired time period for reply and, where appropriate, an explanation of the urgency thereof.
2. The Requested Authority will confirm the receipt of the request. It may require further details in accordance with its domestic Applicable Law.
3. The Requested Authority will assess each request on a case-by-case basis. In deciding whether and to what extent to fulfil a request, the Requested Authority may take into account:
 - a. whether the request conforms with this MoU;
 - b. whether compliance with the request would be so burdensome as to disrupt the proper performance of the Requested Authority's functions;
 - c. whether it would be otherwise contrary to the essential interest of the Requested Authority's jurisdiction to provide the information requested;
 - d. any other matters specified by the domestic Applicable Law of the Requested Authority's jurisdiction (in particular those relating to confidentiality and professional secrecy, data protection and privacy, and procedural fairness); and
 - e. whether complying with the request may otherwise be prejudicial to the performance by the Requested Authority of its functions.
4. Where the Requested Authority cannot entirely fulfil the request it will cooperate with and assist the Requesting Authority to the extent possible.
5. For urgent cases in which the use of the prescribed form is not appropriate, a request can be presented orally subject to written confirmation within 10 business days.

Art. 7 Points of Contact

1. To facilitate cooperation and information exchange under this MoU, the Signatory Authorities hereby designate principal points of contact which are listed in Annex C.
2. All communications between the Requesting and Requested Authorities shall take place between the relevant points of contact unless agreed otherwise in a particular case.

Art. 8 Costs

If the costs of fulfilling a request are likely to be substantial, the Requested Authority may, as a condition of agreeing to provide assistance under this MoU, require the Requesting Authority to make a contribution to costs.

Art. 9 Review and Amendment

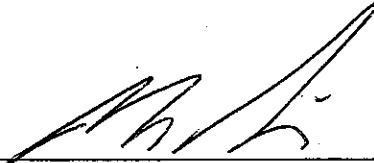
1. The Signatory Authorities will periodically review the functioning and effectiveness of cooperation and information exchange under this MoU.

2. Any amendment to this MoU requires the consent of the Signatory Authorities and shall be done in writing.

Executed by the Parties:

For the Commissariat aux Assurances

For the Financial Services Commission



Victor Rod
Director

Marcus Killick
Chief Executive Officer

Date: 21.7.2009

Date: 9/7/09

Annex A : List of Signatory Authorities to this Memorandum of Understanding

The **CAA** regulates and supervises all insurance and reinsurance business transacted in Luxembourg. Under the Law of 6th December 1991 on the insurance sector, as amended, (the "Law") it administers the supervision of private insurance undertakings operating in Luxembourg, as well as pension funds, domestic companies engaging in reinsurance business as well as insurance and reinsurance intermediaries. The scope of supervision includes all aspects of prudential supervision and a good conduct of business.

The **FSC** is a statutory body established under the Financial Services Commission Act 2007. It has statutory powers of licensing, supervision and investigation, and has the ability to exercise its powers for the purpose of co-operation with foreign authorities. The FSC is responsible for the regulation, supervision and inspection of all financial services in and from within Gibraltar. Such financial services include banking, investment services, insurance, insurance intermediation, insurance management, collective investment schemes, fund administration, trust & company management and money service businesses.

Annex B: MoU Confidentiality Regime

The Signatory Authorities to this MoU guarantee compliance with the strict Confidentiality Regime below:

1. As a general rule any information received under this MoU shall be treated as confidential except where otherwise indicated or where information is passed on in summary or aggregate form such that individual Regulated Entities cannot be identified.
2. The MoU is not aimed at requests for information that has been or is publicly available (public information). Such requests should remain limited to cases where confirmation is sought or where public information proves difficult to obtain from other sources, when it may be readily delivered by the Requested Authority.

A. Confidentiality and Guarantee of Professional Secrecy

The legal system of a Signatory Authority's jurisdiction must provide incorporated rules protecting Confidential Information which are at least equivalent to the following:

3. The exchange of Confidential Information shall serve no other purposes than those directly related to the fulfilment of a Signatory Authority's supervisory functions (valid purpose).
4. To achieve confidential treatment of information received, the Signatory Authorities to the MoU must provide that all persons gaining access to this information in the course of their duties are bound by an obligation of professional secrecy.
5. The obligation of professional secrecy means that - as a basic rule - all Confidential Information received may not be divulged to any person or authority whatsoever, except in certain circumstances and subject to requirements outlined in this Annex.
6. The professional secrecy requirements apply to any person currently or previously employed by or acting on behalf of a Signatory Authority.
7. Confidential Information originating from another Signatory Authority must remain subject to equivalent confidentiality protections. Therefore any further passing on of Confidential Information requires that the person receiving the information is bound by professional secrecy rules at least equivalent to those outlined in provisions 4, 5 and 6 of this Annex.
8. Any passing on of Confidential Information in breach of professional secrecy must be unlawful in the relevant jurisdiction of the Signatory Authority.

B. Passing on of Confidential Information

9. Any passing on of Confidential Information exchanged under this MoU, including information that shall be forwarded by way of official reporting, necessitates prior explicit agreement of the Signatory Authority from whom the information originates and must be subject to the terms of this agreement, in particular regarding the purpose for which the information shall be used.
10. Passing on of Confidential Information shall be decided on a case-by-case basis by the Requested Authority.
11. Without prejudice to provisions 9 and 10 and provided that Confidential Information received under this MoU shall:
 - serve no other purposes than those specified in the request; and
 - remain subject to equivalent confidentiality protection

the Signatory Authorities consent to passing on of information where it will assist:

- Signatory Authorities in the fulfilment of their supervisory functions; and
- other domestic bodies competent in the financial services field (including central banks); law enforcement agencies and relevant courts in the performance of their duties.

12. Specified purposes cover in particular requests in relation to:

- licensing;
- fit and proper criteria;
- ongoing supervision including auditing matters;
- winding up, liquidation and bankruptcy;
- criminal and regulatory proceedings; and
- the administration of guarantee funds.

13. Furthermore the Signatory Authorities shall generally consent to any passing on of Confidential Information where the individual Regulated Entity to whom the information relates explicitly agrees.

C. Confirmation Statement

14. I confirm, on behalf of my organisation, that:

- on our understanding, information to be disclosed to us will be subject to equivalent professional secrecy to that outlined in the confidentiality regime as set out above; and
- we will notify the other Signatory Authority of this MoU of any changes in the guarantees of professional secrecy applying to such information which could affect the assessment of the equivalence of these guarantees according to the confidentiality regime.
- I also confirm, on behalf of my organisation, that in relation to information disclosed by the other Signatory Authority:
- we will obtain the prior consent of the other Signatory Authority before voluntarily passing on such information; and
- we will, as far as practicable, notify the other Signatory Authority promptly of any passing on of information or disclosure prescribed by law, and use our best endeavours to resist such demand in practice if requested by that Signatory Authority.

For the Commissariat aux Assurances

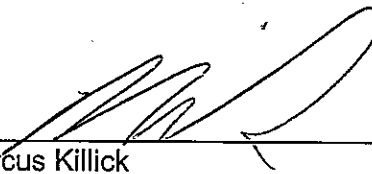
For the Financial Services Commission



Victor Rod
Director

Date:

21.7.2009



Marcus Killick
Chief Executive Officer

Date:

9/7/09

Annex C: Contact Persons

Contact Persons for:

Commissariat aux Assurances

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L-2449 Luxembourg

Name: Ms Michèle Osweiler
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