

16 March 2018

Co-operation Agreement

GIBRALTAR

Financial Services
Commission

HONG KONG

Insurance Authority



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Co-operation Agreement between

Gibraltar Financial Services
Commission ("GFSC")

Gibraltar Financial Services Commission
PO Box 940
Suite 3, Ground Floor
Atlantic Suites
Europort Avenue
Gibraltar

and

Insurance Authority ("IA")

Insurance Authority
19/F, 41 Heung Yip Road,
Wong Chuk Hang, Hong Kong

1. Definitions

For the purposes of this Co-operation Agreement, unless the context requires otherwise:

"Authority" means the GFSC or the IA; and collectively, shall be referred to as "the Authorities";

"Financial technologies", or "Fintech", is used to describe a variety of business models and emerging technologies that have the potential to supplement or disrupt the financial services industry.¹

"Innovator Business" means an innovative financial business that has been offered support from an Authority through its Innovation Function, or would qualify for such support;

"Innovation Function" means the dedicated function established in both Authorities to act as the centralised contact point for Innovator Businesses;

"Receiving Authority" means the Authority that is receiving an Innovator Business referral or information relating to that referral;

"Referring Authority" means the Authority that is referring an Innovator Business to the Receiving Authority;

"Regulations" means any regulation or regulatory requirement applicable in the jurisdiction of an Authority; and

¹Innovative Fintech business models typically offer one or more specific financial products or services in an automated fashion through the use of the internet. Examples include robo-advisors as well as online platforms for insurance distribution, underwriting and digitisation of compliance of certain regulatory requirements by insurers. Emerging technologies include big data analytics, cognitive computing, machine learning, artificial intelligence and distributed ledger technology.

2. Introduction

- 2.1. The Authorities share a mutual desire to stay abreast of innovation in financial services in their respective markets. Both Authorities have established Innovation Functions in order to do so:
 - 2.1.1. The GFSC established an Innovate and Create Team in February 2016 as part of the GFSC's commitment to supporting both existing licensees and those looking to take their first steps into the financial services sector – either as a financial services firm or offering support to financial services firms.
 - 2.1.2. Included as part of the GFSC's Innovate and Create Team's initiatives, as of 1st January 2018, any firm carrying out by way of business, in or from Gibraltar, the use of distributed ledger technology (DLT) for storing or transmitting value belonging to other, needs to be authorised by the GFSC as a DLT Provider.
 - 2.1.3. The IA established a Fintech Liaison Team in February 2016, which was renamed to Insurtech Facilitation Team in September 2017, to enhance the communication with business involved in the development and application of Fintech in Hong Kong. The Insurtech Facilitation Team is tasked to facilitate the Fintech community's understanding of the current insurance regulatory regime in Hong Kong and act as a platform for exchanging ideas of innovative Fintech initiatives among key stakeholders, and provide advice on Fintech-related topics as appropriate.

3. Purpose

- 3.1. The purpose of this Co-operation Agreement is to provide a framework for co-operation and referrals between the Innovation Functions of each Authority. It also sets out how the Authorities plan to share and use information on innovation in their respective markets.

4. Principles

- 4.1. The Authorities intend to provide the fullest possible mutual assistance to one another within the terms of this Co-operation Agreement. This Co-operation Agreement operates subject to the domestic laws and regulations of each Authority and does not modify or supersede any laws or regulatory requirements in force in, or applying to, Hong Kong or Gibraltar. This Co-operation Agreement sets forth a statement of intent and accordingly does not create any enforceable rights, and is not legally binding.

5. Scope of Assistance

Referral mechanism

- 5.1. The Authorities will refer to each other Innovator Businesses that would like to operate in the other Authority's jurisdiction. The Receiving Authority intends to assist the Innovator Businesses in understanding the regulatory regime under the Receiving Authority's remit, and how such regimes may be relevant to them.

Information sharing

- 5.2. The Authorities intend to share information about innovations in financial services in their respective markets, where appropriate. This may include, but is not limited to:
 - 5.2.1. Emerging trends and developments;
 - 5.2.2. Regulatory issues pertaining to innovation in financial services; and
 - 5.2.3. Information on organisations or bodies which lead efforts to promote innovation in financial services.

Potential joint innovation projects

- 5.3. Authorities intend to consider participating in joint innovation projects on the application of novel financial technologies.

6. Confidentiality & Permissible Uses

- 6.1. Any information disclosed by one Authority to the other Authority under this Co-operation Agreement, unless otherwise stated, should be treated by the other Authority as confidential information.
- 6.2. An Authority that receives confidential information under this Co-operation Agreement will only disclose that information in accordance with the disclosure permitted under its applicable laws and requirements. The Authorities intend that the sharing or disclosure of confidential information will not constitute a waiver of privilege or confidentiality of such information.
- 6.3. A Referring Authority may only send information about an Innovator Business to a Receiving Authority if the Referring Authority has received prior consent from the Innovator Business that it may so do.
- 6.4. A Receiving Authority should use information about a referred Innovator Business only for the purpose of providing support to the referred Innovator Business through the Receiving Authority's Innovation Function and to seek to ensure compliance with the law of the Receiving Authority's jurisdiction.
- 6.5. The Authorities should use any information disclosed to it by the other Authority only for the purposes for which the information was disclosed, unless the other Authority consents to other uses.
- 6.6. If either Authority is required to disclose any information provided to it by the other Authority pursuant to a requirement of law, such Authority should notify the other Authority prior to complying with such a requirement and should assert all appropriate legal exemptions or privileges with respect to such information as may be available.

7. Term

- 7.1. This Co-operation Agreement takes effect from the date of execution and will continue to have effect until terminated by either of the Authorities by the giving of at least 30 days' written notice of termination to the other Authority.
- 7.2. Termination of this Co-operation Agreement does not affect obligations under any Memorandum of Understanding between the two Authorities.
- 7.3. In the event of the termination of this Co-operation Agreement, information obtained under this Co-operation Agreement will continue to be treated in the manner set out under paragraph 6.

8. Amendment

- 8.1. The Authorities will review the operation of this Co-operation Agreement and update its terms as required.
- 8.2. This Co-operation Agreement may be amended if both Authorities agree in writing to do so.

Executed by the Authorities:

For the IA

For the GFSC

John Leung
Chief Executive Officer
Insurance Authority

Samantha Barrass
Chief Executive Officer
Gibraltar Financial Services Commission

Date:

Date:

Appendix 1: Authority-wide Contact Details

GFSC: Head of Risk and Innovation
Gibraltar Financial Services Commission
PO Box 940
Suite 3, Ground Floor
Atlantic Suites
Europort Avenue
Gibraltar

IA: Insurtech Facilitation Team
Insurance Authority
19/F, 41 Heung Yip Road,
Wong Chuk Hang,
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