



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
OFFICE OF FINANCIAL AND INSURANCE REGULATION
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
STANLEY "SKIP" PRUSS, DIRECTOR

KEN ROSS
COMMISSIONER

June 11, 2010

VIA FIRST CLASS MAIL

Gareth Truan
Manager, Major Retail Groups Division
Financial Services Authority
25 The North Colonnade
Canary Wharf, London E14 5HS

Re: Memorandum of Understanding

Dear Mr. Truan:

Enclosed please find an executed Memorandum of Understanding between the Michigan Office of Financial and Insurance Regulation and the Financial Services Authority of the United Kingdom.

You are welcome to direct any questions you may have to me at 517-335-5872.

Sincerely,

Randall S. Gregg
OFIR Attorney

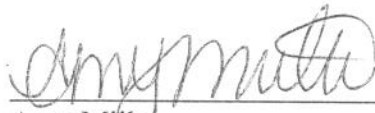
Enclosures

STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION

CERTIFICATE OF SERVICE

I certify that on June 11, 2010, I served an original of the executed **MEMORANDUM OF UNDERSTANDING BETWEEN THE MICHIGAN OFFICE OF FINANCIAL AND INSURANCE REGULATION AND THE FINANCIAL SERVICES AUTHORITY OF THE UNITED KINGDOM**, dated June 11, 2010, upon the following party by depositing same in a United States Postal Depository in the City of Lansing, Michigan, enclosed in an envelope, first class mail bearing postage fully prepaid, and plainly addressed as follows:

Gareth Truan
Manager, Major Retail Groups Division
Financial Services Authority
25 The North Colonnade
Canary Wharf, London E14 5HS



Amy Miilu

28 May 2010

**MEMORANDUM
OF
UNDERSTANDING**

between

**MICHIGAN OFFICE
OF FINANCIAL AND
INSURANCE REGULATION**
("OFIR")

and

**FINANCIAL SERVICES
AUTHORITY of the
UNITED KINGDOM**
("FSA")

RECEIVED

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OFIR/OGC

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Memorandum of Understanding Concerning Cooperation, Coordination, Consultation and Exchange of Information Related to Persons or Entities Engaged in the Business of Insurance

Overview

In light of the growing globalization of insurance markets, the Michigan Office of Financial and Insurance Regulation (“OFIR”) and the United Kingdom Financial Services Authority (“FSA”) (collectively, the “Authorities”) hereby enter into this Memorandum of Understanding (“MoU”) to provide a formal basis for cooperation and coordination, including for the exchange, handling, protection and return of information in their possession and, where appropriate, investigative assistance with respect to companies and persons engaged in the business of insurance. The OFIR and the FSA express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates and functions.

The OFIR regulates all insurance business transacted in the State of Michigan and is the primary regulator for insurance entities domiciled therein. In its capacity as regulator, the OFIR administers, interprets and enforces the provisions of Michigan’s insurance laws and regulations, and is vested and charged with all rights, powers and duties as expressed or reasonably implied by the Michigan Insurance Code.

The FSA regulates insurance business transacted in the United Kingdom pursuant to its mandate to administer and enforce the Financial Services and Markets Act 2000 (“FSMA”) which provides, amongst other things, that no person may carry on a regulated activity in the United Kingdom unless authorized or exempt. Insurance was designated a regulated activity by Her Majesty’s Treasury under the Financial Services and Markets Act 2000 (Regulated Activities) Order.

Definitions

1. For purposes of this MoU, unless the context states otherwise:
 - (a) “Administering” an applicable law, regulation or requirement includes enforcing the same.
 - (b) “Applicable laws, regulations and requirements” means any law, regulation or requirement applicable in the State of Michigan and/or in the United Kingdom, and where the context permits, includes:
 - (i) Relevant European legislation that has not yet been transposed into the United Kingdom’s domestic law;
 - (ii) Any law, regulation or requirement applicable in the State of Michigan or in the United Kingdom;

- (iii) Any rule, direction, requirement, guidance or policy made or given by, or to be taken into account by an Authority.
- (c) “Authority” or “Authorities” means the OFIR and/or the FSA.
- (d) “Confidential Information” means:
 - (i) Any documents or records deemed confidential by Michigan law, regulation or privilege, including, but not limited to, draft examination reports; examination work papers; analyses of financial condition; reports of fraudulent activity; records regarding holding company transactions; and trade secrets or records maintained for the regulation of commercial enterprise, which if disclosed would cause substantial injury to the competitive position of the subject enterprise. Confidential information also includes records the disclosure of which would constitute unwarranted invasion of personal privacy, would impair present or imminent contract awards or collective bargaining negotiations, or would endanger the life or safety of any person; records compiled for law enforcement purposes; certain inter-agency or intra-agency correspondence; computer access codes; and examination questions or answers requested prior to the final administration of such questions.
 - (ii) Any documents or records deemed confidential by United Kingdom law, regulation or privilege including, but not limited to information which relates to the business or other affairs of any person, received by the FSA for the purpose of, or in the discharge of, any functions of the FSA and which is not otherwise prevented from being confidential information.
- (e) “Emergency Situation” means any situation or event that could materially affect or impair the financial or operational condition of a Regulated Entity or Person or substantially affect the public interest of the jurisdiction of either Authority and that, accordingly, must be handled in an expedited manner.
- (f) “FSA” means the Financial Services Authority.
- (g) “Host Authority” means the Authority in whose jurisdiction the On-Site Inspection will be performed.
- (h) “Inspecting Authority” means the Authority performing the On-Site Inspection.
- (i) “OFIR” means the Michigan Office of Financial and Insurance Regulation.
- (j) “On-Site Inspection” means any routine or regulatory inspection or examination of the books, records or premises of a Regulated or Related Entity or Person.
- (k) “Person” means a natural person, legal entity, partnership or unincorporated association.
- (l) “Regulated Entity” or “Regulated Person” means a company or person engaged in insurance activities subject to the supervision of the OFIR and/or the FSA.

- (m) "Related Entity or Person" means legal entities or sub-groups of a Regulated Entity or Person, including affiliates, branches or subsidiaries, regulated by one or both Authorities.
- (n) "Requesting Authority" means the Authority seeking assistance/information.
- (o) "Responding Authority" means the Authority responding to a request for assistance/information.

Purpose and Objective of MoU

2. The purpose of this MoU is to establish a formal basis for consultation, cooperation and coordination between the FSA and the OFIR, and to provide for the exchange of information relevant to each Authority's regulatory responsibilities.

Requests for Assistance

3. Requests for assistance include, among other things, (a) requests to confirm or verify information; (b) requests to obtain information about a specified person or entity; (c) requests for discussion of issues of mutual interest between the Authorities; (d) requests to participate in questioning or taking testimony of persons designated by the Requesting Authority (subject to Paragraphs 21-28 inclusive); (e) requests to conduct inspections or examinations of Regulated/Related Entities or Persons; and (f) requests to permit representatives of the Requesting Authority to participate in the conduct of enquiries made by or on behalf of the Responding Authority pursuant to (d) – (e) above. Requests for assistance that include requests for Confidential Information shall follow the procedure set forth in this MoU. If a request for assistance is made under this agreement, each Authority shall use reasonable efforts to assist the other, subject to its laws and overall policy.
4. This MoU sets forth a statement of intent and accordingly does not create any legally binding obligations, confer any rights, modify, or supersede any domestic laws or regulatory requirements in force in, or applying to, the State of Michigan or United Kingdom. This MoU does not confer upon any person the right or ability, directly or indirectly, to obtain, suppress or exclude any information or to challenge the execution of a request for assistance under this MoU. This MoU is not intended to affect any arrangements under any other MoUs in existence to which either of the Authorities is a party.
5. The Authorities acknowledge that they may only provide information under this MoU if permitted or not prevented under applicable laws, regulations and requirements.
6. Subject to paragraphs 8 and 9 below, the Authorities shall consider and promptly respond to all requests for assistance regarding: (a) the safety, soundness, or financial condition of a Regulated Entity or Person, or (b) the insurance activities of a Regulated Entity or Person. Where Confidential Information is involved, the decision to share this information is at the sole discretion of the Responding Authority; however, the Responding Authority shall use reasonable efforts to obtain and share such information.

Procedure for Making/Responding to Requests for Assistance

7. To the extent possible, all requests for assistance shall be in writing and, if made orally, the provisions of Paragraph 13 below must be followed. Requests for assistance must be directed to the appropriate appointed contact person(s) identified in Exhibit A hereto, and should include the following:
 - (a) A description of the information, confirmation or verification sought by the Requesting Authority.
 - (b) A general description of the matter that is the subject of the request and the purpose for which the information is sought.
 - (c) The desired time period for reply, and where appropriate, an explanation of the urgency thereof. It is a condition of information provided by the FSA that it may only be used for the purpose of enabling or assisting the Requesting Authority to discharge its functions as a regulatory authority.
 - (d) A description of other persons or entities, if any, to whom further disclosure of information provided to the Requesting Authority would be necessary, and the purpose such disclosure would serve. It is a condition of information provided by the FSA that it may only be used for the purpose of enabling or assisting the Requesting Authority to discharge its functions as a regulatory authority.
 - (e) If the request for assistance is for the purpose of actual or possible enforcement action, see Paragraphs 21-28 inclusive.
 - (f) Any other matters specified by the Responding Authority and by the applicable laws, regulations and requirements in relation to the Responding Authority.
8. Each Responding Authority shall use reasonable efforts to assess, on a case-by-case basis, whether any information or assistance that has been requested can be provided under the terms of this MoU and applicable laws. Where the request cannot be fulfilled in whole or in part, the Responding Authority shall consider whether it, or any other regulatory authority in its jurisdiction, has the ability to render assistance to the Requesting Authority and, to the extent possible, shall use reasonable efforts to facilitate such assistance.
9. In deciding whether and to what extent to fulfill a request, the Responding Authority may take into account:
 - (a) Whether the request for assistance conforms with this MoU;
 - (b) Whether the request for assistance involves the administration of a law, regulation or requirement that has no close parallel in the jurisdiction of the Responding Authority;
 - (c) Whether compliance with the request for assistance would be so burdensome as to disrupt the proper performance of the Responding Authority's regulatory functions or otherwise prejudicial to the performance of such functions;

- (d) Whether it would be detrimental or otherwise contrary to the public interest or the essential national interest of the Responding Authority's jurisdiction to provide the information requested;
- (e) Whether complying with the request may otherwise be prejudicial to the performance by the Responding Authority of its functions;
- (f) Whether the request for assistance is for the purpose of actual or possible enforcement action, see Paragraphs 21-28 inclusive; and
- (g) Any other matters specified by the laws, regulations and requirements of the Responding Authority's jurisdiction (in particular those relating to confidentiality, professional secrecy, data protection, privacy and procedural fairness).

Confidentiality

10. The Authorities may voluntarily and in their sole discretion provide information, including Confidential Information, without having received a request for assistance.
11. In responding to any request for assistance, the Responding Authority shall identify any information that is provided pursuant to this MoU that constitutes Confidential Information.
12. The Authorities agree to request Confidential Information only in relation to the performance of their functions and shall use the Confidential Information they receive under this MoU only for those purposes.
13. To the extent possible, all requests for Confidential Information shall be made in writing and addressed to the appropriate appointed contact person(s) identified in Exhibit A. Where, due to an Emergency Situation or exceptional circumstances, an oral request is necessary, such request shall thereafter be confirmed by the Requesting Authority in writing within ten (10) business days. Requests for Confidential Information made at in-person meetings between the Authorities do not require a subsequent written confirmation if such oral requests will be adequately noted in the agreed minutes of the meetings between the Authorities.
14. The OFIR states that pursuant to the Michigan Insurance Code, section 222(7)(b), it has the legal authority necessary to enter into this MoU and undertakes to protect from disclosure, and otherwise preserve, the confidential or privileged nature of any Confidential Information that it requests and receives pursuant to this MoU and to disclose such information only if permitted under all applicable laws, regulations and requirements. OFIR will treat any information which it receives from the FSA pursuant to this MoU as subject to paragraph 222(7) of the Michigan Insurance Code at all times.
15. The FSA states that, pursuant to ss348 and 349 of FSMA and regulations made thereunder, it has the legal authority to enter into this MoU and the obligation not to disclose confidential information as defined in that Act, unless disclosure is permitted by that Act and the regulations made under it.

16. All Responding Authority Confidential Information belongs to, and shall remain the property of, the Responding Authority. The Requesting Authority shall, in accordance with applicable laws, regulations and pursuant to the terms of this MoU take all actions reasonably necessary to preserve, protect, and maintain the confidentiality of such Confidential Information and any privileges associated therewith.
17. The Requesting Authority shall ensure that all employees and former employees and all other persons (including all auditors, experts and agents) who work for it and have worked for it in the past, are bound by a confidentiality obligation at least equivalent to that which the Requesting Authority is subject to.
18. The Requesting Authority may provide Confidential Information received under this MoU to other state, federal or international regulatory or law enforcement officials who have authority over the Regulated Entity that is the subject of the Confidential Information, provided that (a) information is provided solely to assist the Requesting Authority in the exercise of its own functions; (b) such disclosure is made in accordance with all applicable laws, regulations and requirements; (c) the Requesting Authority obtains the consent of the Responding Authority prior to such disclosure; (d) the Requesting Authority discloses to the Responding Authority the identity of each recipient with whom the Confidential Information will be shared; and (e) confirms that each recipient agrees to, and has the legal authority to, maintain a level of confidentiality at least equivalent to that which the Requesting Authority is subject to (including, where relevant, limitations imposed upon it by the Responding Authority).
19. Where there is a subpoena or other legally enforceable demand for information supplied under this MoU, the Requesting Authority shall notify the Responding Authority. The Requesting Authority shall use all reasonable legal means to resist such a demand, including asserting such appropriate legal exemptions or privileges with respect to that information as may be available, and shall afford the Responding Authority the opportunity to take whatever action it deems appropriate to preserve, protect and maintain the confidential nature of the information provided, including consenting to any application by the Responding Authority to intervene in any action to preserve the confidentiality of Responding Authority Confidential Information.
20. Each Authority will attach a copy of the confidentiality provisions applicable in its country to the MoU as **Exhibit B**. The Authorities will inform each other in due course if the confidentiality regime is significantly affected by a change of law or a court decision.

Procedures for Enforcement Matters

Details to be contained in Requests for Assistance

21. If a request for assistance as described in this MoU relates to actual or possible enforcement action, the following further details will be contained in the request:
 - (a) a description of the conduct or suspected conduct which gives rise to the request;
 - (b) details of the applicable law, regulation or requirement to the administration of which the request is relevant;

- (c) the link between the specified law, regulation or requirement, and the regulatory functions of the Requesting Authority;
- (d) the relevance of the requested assistance to the specified law, regulation or requirement; and
- (e) whether it is desired that, to the extent permitted by the laws applying to the Responding Authority, any persons from the country of the Requesting Authority should be present during interviews which form part of an investigation, and whether it is desired that such persons should be permitted to participate in the questioning (as to which see para 23 below).

Possible Ground for Denial of Request for Assistance

- 22. If a request for assistance as described in this MoU relates to actual or possible enforcement action, the following further matter may be taken into account by the Responding Authority in determining whether it would be reasonable to fulfil the request in whole or in part, that is, whether the request would lead to the prosecution of, or the taking of disciplinary or other enforcement action against, a person who in the reasonable opinion of the Responding Authority has already been the subject of appropriate and relevant disciplinary or other enforcement action or has otherwise has been appropriately dealt with.

Requests to Sit in

- 23. If, following a request for assistance from the Requesting Authority, the Responding Authority conducts an interview of any Regulated or Related Entity or Person, the Responding Authority may permit a representative of the Requesting Authority to attend such an interview and to ask questions. Such requests will be in accordance with the applicable laws, regulations and requirements of the Responding Authority. Requests for such assistance should conform to any published guidance for the making of such requests issued by the Responding Authority.

Joint Investigations

- 24. The Authorities acknowledge that, subject to secrecy and confidentiality issues, an investigation, where it concerns suspected breaches of the law of both jurisdictions, may be conducted more effectively by the establishment of a joint investigation involving members from both Authorities.
- 25. The Authority suggesting the joint investigation will advise the other Authority of the background to the request for a joint investigation, and liaise with the other Authority to determine the likely objectives of the joint investigation, the expected resources required and the approximate duration of the proposed joint investigation. Each Authority will advise the other as soon as possible as to whether it will agree to such joint investigation.
- 26. If the Authorities agree to take part in a joint investigation, an agreed initial action plan will be prepared setting forth, among other things, the objectives, expected duration, funding, publicity and accountability arrangements, management of the joint investigation, and allocation of responsibilities.

27. Suggestions to the OFIR for a joint investigation should be made through the Deputy Commissioner of the Enterprise Monitoring Division. Suggestions to the FSA should be made to the Director of Enforcement.

Rights of Persons Preserved

28. Any person or entity providing testimony, information or documents as a result of a request for assistance made under this MoU will be entitled to all applicable rights and protections of the laws of the jurisdiction of the Responding Authority. Where such entity or person asserts other rights and privileges arising exclusively pursuant to the laws of the jurisdiction of the Requesting Authority, the Authorities will consult with each other to determine the most appropriate way to proceed.

On-Site Inspections

29. The OFIR and the FSA recognize that cooperation is particularly useful in assisting each other in carrying out On-Site Inspections of Regulated or Related Entities and Persons in both jurisdictions where that would be necessary for either the OFIR or the FSA (as the case may be) to carry out their relevant functions. To that end, the Authorities agree to comply with the following procedures prior to conducting On-Site Inspections:
 - (a) The Inspecting Authority shall notify the Host Authority of the Inspecting Authority's intent to conduct an On-Site Inspection, by itself or by an authorized third party; the time frame for the inspection; and the scope of such inspection. Where practicable, the Inspecting Authority shall notify the Host Authority of the inspection at least one week prior to informing the Regulated or Related Entity or Person that it will be the subject of the On-Site Inspection.
 - (b) The Host Authority may, in its discretion, accompany the Inspecting Authority to, and assist the Inspecting Authority with, any On-Site Inspections.
 - (c) If the On-Site Inspection is for the purpose of actual or possible enforcement action, the matters set out in paragraphs 21 – 28 inclusive apply.

Costs

30. Where the cost of fulfilling a request is deemed substantial, the Responding Authority may, on a case-by-case basis and as a condition of agreeing to give assistance under this MoU, require the Requesting Authority to bear some or all of such costs.

Consultation between the Authorities

31. The Authorities shall keep the operation of this MoU under review and shall consult with each other as necessary with a view to improving its operation and resolving any concerns that have arisen out of its operation.
32. Where a specific conduct outlined in a request for assistance constitutes a breach of a law, regulation or requirement in the jurisdiction of both Authorities, the Authorities shall consult with each other to determine the most appropriate means for each Authority to provide the assistance requested.

Commencement and Termination of the MoU

33. This MoU shall take effect when both Authorities have signed it and shall continue to have effect until terminated by either Authority upon thirty (30) days written notice. Termination shall not in any way affect the rights or obligations of either Authority with respect to information previously provided under this MoU.
34. This MoU supersedes and replaces all other existing agreements or representations, either oral or written, between the parties to this MoU regarding the sharing of information. No waiver, alteration or modification of the provisions of this MoU shall have effect unless subsequently made in writing and signed by duly authorized representatives of the Authorities.

Executed by the Parties:

**For the Michigan Office of
Financial and Insurance
Regulation**



Ken Ross, Commissioner

**For the United Kingdom
Financial Services Authority**



Clive Adamson, Director, Major Retail
Groups Division

Date: June 11, 2010

Date: 28 May 2010

EXHIBIT A

Contact Persons

Michigan Office of Financial and Insurance Regulation

611 West Ottawa Street, 3rd Floor
Lansing, Michigan, 48933

Ken Ross
Commissioner
Telephone Number: (517) 335 5834
Fax Number: (517) 373 4870
Email: rosskl@michigan.gov

OR

Barbara Strefling
Deputy Commissioner, Enterprise Monitoring Division
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Fax Number: (517) 373 6739
Email: streflingb@michigan.gov

OR

John Schoonmaker
General Counsel, Office of General Counsel
Telephone Number: (517) 373 0435
Fax Number: (517) 335 3157
Email: schoonmakerj@michigan.gov

United Kingdom Financial Services Authority

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Director, Major Retail Groups Division
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Fax Number: +44 (0)20 7066 0363
E-Mail: clive.adamson@fsa.gov.uk

OR

Stuart King
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EXHIBIT B

Excerpt from Michigan Insurance Code

THE INSURANCE CODE OF 1956 (EXCERPT)

Act 218 of 1956

500.222 Examination of insurers; examination report; hearing; public inspection; disclosure of confidential information; effect of current examination; commissioner's authority to terminate or suspend examination not limited; alien insurer.

Sec. 222.

- (1) The commissioner in person or by any of his or her authorized deputies or examiners may examine any or all of the books, records, documents, and papers of any insurer at any time after its articles of incorporation have been executed and filed, or after it has been authorized to do business in this state. The commissioner in his or her discretion may examine the affairs of any domestic insurer, and if he or she considers it expedient to do, to examine the affairs of any foreign or alien insurer doing business in this state.
- (2) Instead of an examination under this act of any foreign or alien insurer authorized to do business in this state, the commissioner may accept an examination report on the insurer as prepared by the insurance regulator for the insurer's state of domicile or port-of-entry state if that state accepts examination reports prepared by the commissioner. This subsection applies only as follows:
 - (a) Until this state becomes accredited by the national association of insurance commissioners' financial regulation standards and accreditation program.
 - (b) If this state loses accreditation by the national association of insurance commissioners' financial regulation standards and accreditation program.
- (3) Instead of an examination under this act of any foreign or alien insurer authorized to do business in this state, the commissioner may accept an examination report on the insurer as prepared by the insurance regulator for the insurer's state of domicile or port-of-entry state if that state accepts examination reports prepared by the commissioner and if the insurance regulatory agency of the state of domicile or port-of-entry state was accredited by the national association of insurance commissioners' financial regulation standards and accreditation program at the time of the examination or if the examination is performed under the supervision of an accredited insurance regulatory agency or with the participation of 1 or more examiners who are employed by an accredited insurance regulatory agency and who, after a review of the examination work papers and report, state under oath that the examination was prepared in a manner consistent with the standards and procedures required by their accredited regulatory agency. This subsection only applies during the time this state is accredited by the national association of insurance commissioners' financial regulation standards and accreditation program.
- (4) The commissioner in person or by any of his or her authorized deputies or examiners shall once every 5 years examine the books, records, documents, and papers of each authorized insurer. The commissioner may examine an insurer more frequently and upon its request shall examine

a domestic insurer that has not been examined for the 3 years immediately preceding the request. This section does not authorize the examination of books, records, documents, or papers if those items involve matters that are a subject of a currently pending administrative or judicial proceeding against the insurer from whom the information is sought, unless the commissioner or judge specifically finds on the record of the proceeding that the examination is reasonably necessary to protect the interests of policyholders, creditors, or the public or to make a determination of whether an insurer is safe, reliable, and entitled to public confidence.

- (5) The business affairs, assets, and contingent liabilities of insurers shall be subject to examination by the commissioner at any time. The commissioner may supervise and make the same examination of the business and affairs of every foreign or alien insurer doing business in this state as of domestic insurers doing the same kind of business and of its assets, books, accounts, and general condition. Every foreign or alien insurer and its agents and officers are subject to the same obligations and are subject to the same examinations, and, in case of default therein, to the same penalties and liabilities as domestic insurers doing the same kind of business, or any of the agents or officers thereof, are or may be liable to under the laws of this state or the regulations of the insurance bureau of the department of commerce. The commissioner may, whenever he or she considers it expedient to do so, either in person or by a proper person appointed by him or her, repair to the general office or other offices of the foreign or alien insurer, wherever the same may be, and make an investigation and examination of its affairs and condition.
- (6) Upon an examination under this section, the commissioner, his or her deputy, or any examiner authorized by him or her may examine in person, by writing, and if appropriate, under oath the officers or agents of the insurer or all persons considered to have material information regarding the insurer's property, assets, business, or affairs. The commissioner may compel the attendance and testimony of witnesses and the production of any books, accounts, papers, records, documents, and files relating to the insurer's business or affairs, and may sign subpoenas, administer oaths and affirmations, examine witnesses, and receive evidence for this purpose. The insurer and its officers and agents shall produce its books and records and all papers in its or their possession relating to its business or affairs, and any other person may be required to produce any books, records, or papers considered relevant to the examination for the inspection of the commissioner, or his or her deputy or examiners, whenever required. The insurer's officers or agents shall facilitate the examination and aid in making the same so far as it is in their power to do so. If the commissioner's order or subpoena is not followed, the commissioner may request the Ingham county circuit court to issue an order requiring compliance with the commissioner's order or subpoena.
- (7) Not later than 60 days following completion of the examination, the deputy or examiners shall make a full and true report, and furnish the insurer a copy of the examination report that shall comprise only facts appearing on the insurer's books, records, or documents or ascertained from examination of its officers or agents or other persons concerning its affairs and the conclusions and recommendations as may be reasonably warranted from the facts disclosed. An insurer examined, upon its request, shall be granted a hearing before the commissioner or his or her designee before the report is filed. Upon request of the insurer, the hearing shall be closed to the public. A hearing under this subsection is not subject to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. Each examination report shall be withheld from public inspection until the report is final and filed with the commissioner. In addition, the commissioner may withhold any examination report or any analysis of an insurer's financial condition from public inspection for such time as he or she may consider proper. In any event, all information and testimony furnished to the insurance bureau and the insurance bureau's work papers, correspondence, memoranda, reports, records, and other written or oral information related to an examination report or an investigation shall be withheld from public inspection, shall be confidential, shall not be subject to subpoena, and shall not be divulged to

any person, except as provided in this section. If assurances are provided that the information will be kept confidential, the commissioner may disclose confidential work papers, correspondence, memoranda, reports, records, or other information as follows:

- (a) To the governor or the attorney general.
 - (b) To any relevant regulatory agency, including regulatory agencies of other states or the federal government.
 - (c) In connection with an enforcement action brought pursuant to this or another applicable act.
 - (d) To law enforcement officials.
 - (e) To persons authorized by the Ingham county circuit court to receive the information.
 - (f) To persons entitled to receive such information in order to discharge duties specifically provided for in this act.
- (8) The confidentiality requirements of subsection (7) do not apply in any proceeding or action brought against or by the insurer under this act or any other applicable act of this state, any other state, or the United States.
- (9) Notwithstanding the other provisions of this section, the commissioner is not required to finalize and file an examination report for an insurer for a year in which an examination report was not finalized and filed, if the insurer is currently undergoing an examination subsequent to the year for which an examination report was not finalized and filed. Nothing contained in this section shall be construed to limit the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state. Findings of fact and conclusions made pursuant to any examination shall be prima facie evidence in any legal or regulatory action.
- (10) The examination of an alien insurer is limited to its United States business, except as otherwise required by the commissioner.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1959, Act 39, Eff. Mar. 19, 1960;—Am. 1986, Act 173, Imd. Eff. July 7, 1986;—

Am. 1989, Act 302, Imd. Eff. Jan. 3, 1990;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992;—Am. 1994, Act 226, Imd. Eff. June 27, 1994;

—Am. 1994, Act 443, Imd. Eff. Jan. 10, 1995.

United Kingdom Confidentiality Provisions

Appendix –

Extract from FSMA (Financial Services and Markets Act 2000)

S 348

- (1) Confidential information must not be disclosed by a primary recipient, or by any person obtaining the information directly or indirectly from a primary recipient, without the consent of-
 - (a) the person from whom the primary recipient obtained the information; and
 - (b) if different, the person to whom it relates.

- (2) In this Part “confidential information” means information which –
 - (a) relates to the business or other affairs of any person;
 - (b) was received by the primary recipient for the purposes of, or in the discharge of, any functions of Authority, the competent authority for the purposes of Part VI or the Secretary of State under any provision made by or under this Act; and
 - (c) is not prevented from being confidential information by subsection (4).

- (3) It is immaterial for the purposes of subsection (2) whether or not the information was received –
 - (a) by virtue of a requirement to provide it imposed by or under this Act;
 - (b) for other purposes as well as purposes mentioned in that subsection.

- (4) Information is not confidential information if-
 - (a) it has been made available to the public by virtue of being disclosed in any circumstances in which, or for any purposes for which, disclosure is not precluded by this section; or
 - (b) it is in the form of a summary or collection of information so framed that it is not possible to ascertain from it information relating to any particular person.

- (5) Each of the following is a primary recipient for the purposes of this Part –
 - (a) the Authority;
 - (b) any person exercising functions conferred by Part VI on the competent authority;
 - (c) the Secretary of State;
 - (d) a person appointed to make a report under section 166;
 - (e) any person who is or has been employed by a person mentioned in paragraphs (a) to (c);

- (f) any auditor or expert instructed by a person mentioned in those paragraphs.
- (6) In subsection (5) (f) “expert” includes –
- (a) a competent person appointed by the competent authority under section 97;
 - (b) a competent person appointed by the Authority or the Secretary of State to conduct an investigation under Part XI;
 - (c) any body or person appointed under paragraph 6 of Schedule 1 to perform a function on behalf of the Authority.
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S 349

- (1) Section 348 does not prevent a disclosure of confidential information which is-
- (a) made for the purpose of facilitating the carrying out of a public function; and
 - (b) permitted by regulations made by the Treasury under this section.
- (2) The regulations may, in particular, make provision permitting the disclosure of confidential information or of confidential information of a prescribed kind –
- (a) by prescribed recipients, or recipients of a prescribed description, to any person for the purpose of enabling or assisting the recipient to discharge prescribed public functions;
 - (b) by prescribed recipients, or recipients of a prescribed description, to prescribed persons, or persons of prescribed descriptions, for the purpose of enabling or assisting those persons to discharge prescribed public functions;
 - (c) by the Authority to the Treasury or the Secretary of State for any purpose;
 - (d) by any recipient if the disclosure is with a view to or in connection with prescribed proceedings.
- (3) The regulations may also include provision-
- (a) making any permission to disclose confidential information subject to conditions (which may relate to the obtaining of consents or any other matter);
 - (b) restricting the uses to which confidential information disclosed under the regulations may be put.
- (4) In relation to confidential information, each of the following is a “recipient” –
- (a) a primary recipient;
 - (b) a person obtaining the information directly or indirectly from a primary recipient.
- (5) “Public functions” includes –
- (a) functions conferred by or in accordance with any provision contained in any enactment or subordinate legislation;

- (b) functions conferred by or in accordance with any provision contained in the Community Treaties or any Community instrument;
 - (c) similar functions conferred on persons by or under provisions having effect as part of the law of a country or territory outside the United Kingdom;
 - (d) functions exercisable in relation to prescribed disciplinary proceedings.
- (6) "Enactment" includes –
- (a) an Act of the Scottish Parliament;
 - (b) Northern Ireland legislation.
- (7) "Subordinate legislation" has the meaning given in the Interpretation Act of 1978 and also includes an instrument made under an Act of the Scottish Parliament or under Northern Ireland legislation.
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S 352

- (1) A person who discloses information in contravention of section 348 or 350(5) is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) is liable –
 - (a) on summary conviction, to imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum, or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (3) A person is guilty of an offence if, in contravention of any provision of regulations made under section 349, he uses information which has been disclosed to him in accordance with the regulations.
- (4) A person is guilty of an offence if, in contravention of subsection (4) of section 350, he uses information which has been disclosed to him in accordance with that section.
- (5) A person guilty of an offence under subsection (3) or (4) is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 5 on the standard scale, or both.
- (6) In proceedings for an offence under this section it is a defence for the accused to prove –
 - (a) that he did not know and had no reason to suspect that the information was confidential information or that it had been disclosed in accordance with the section 350;
 - (b) that he took all reasonable precautions and exercised all due diligence to avoid committing the offence.

Section 169 FSMA –

ASSISTANCE TO OVERSEAS REGULATORS

S 169

- (1) At the request of an overseas regulator, the Authority may –
 - (a) exercise the power conferred by section 165; or
 - (b) appoint one or more competent persons to investigate any matter.
- (2) An investigator has the same powers as an investigator appointed under section 168(3) (as a result of subsection (1) of that section).
- (3) If the request has been made by a competent authority in pursuance of any Community obligation the Authority must, in deciding whether or not to exercise its investigative power, consider whether its exercise is necessary to comply with any such obligation.
- (4) In deciding whether or not to exercise its investigative power, the Authority may take into account in particular –
 - (a) whether in the country or territory of the overseas regulator concerned, corresponding assistance would be given to a United Kingdom regulatory authority;
 - (b) whether the case concerns the breach of a law, or other requirement, which has no close parallel in the United Kingdom or involves the assertion of a jurisdiction not recognised by the United Kingdom;
 - (c) the seriousness of the case and its importance to persons in the United Kingdom;
 - (d) whether it is otherwise appropriate in the public interest to give the assistance sought.
- (5) The Authority may decide that it will not exercise its investigative power unless the overseas regulator undertakes to make such a contribution towards the cost of its exercise as the Authority considers appropriate.
- (6) Subsections (4) and (5) do not apply if the Authority considers that the exercise of its investigative power is necessary to comply with a Community obligation.
- (7) If the Authority has appointed an investigator in response to a request from an overseas regulator, it may direct the investigator to permit a representative of that regulator to attend, and take part in, any interview conducted for the purposes of the investigation.
- (8) A direction under subsection (7) is not to be given unless the Authority is satisfied that any information obtained by an overseas regulator as a result of the interview will be subject to safeguards equivalent to those contained in Part XXIII.
- (9) The Authority must prepare a statement of its policy with respect to the conduct of interviews in relation to which a direction under subsection (7) has been given.
- (10) The statement requires the approval of the Treasury.
- (11) If the Treasury approve the statement, the Authority must publish it.
- (12) No direction may be given under subsection (7) before the statement has been published.

- (13) "Overseas regulator" has the same meaning as in section 195.
- (14) "Investigative power" means one of the powers mentioned in subsection (1).
- (15) "Investigator" means a person appointed under subsection (1) (b).