

## **Multilateral Memorandum of Understanding concerning consultation, cooperation and the exchange of information between each of the EEA competent authorities and the UK Financial Conduct Authority**

This Multilateral Memorandum of Understanding (MMoU) is agreed between, on the one hand, the Financial Conduct Authority (United Kingdom) (the “UK Authority”), and any of the Authorities listed in Appendix A to this MMoU, on the other hand (each an “*EEA Authority*”, together the “*EEA Authorities*”).

The UK Authority, on the one hand, and the EEA Authorities, on the other hand, express, through this MMoU, their willingness to cooperate with each other in order to maintain confidence in the financial system and preserve financial stability in their respective financial markets by providing mutual assistance and exchanging information in their areas of responsibility within their respective jurisdictions particularly as regards investor protection, market integrity, transparency and the orderly functioning of financial markets.

This MMoU is not intended to facilitate cooperation and/or exchange of information among EEA Authorities.

### **Part I – General principles and provisions governing cooperation under this MMoU**

#### **Section I – General provisions on cooperation**

##### **Article 1. Definitions**

For the purpose of this MMoU:

“Authority” means a signatory to this MMoU or any successor thereof;

“Benchmark” means any index by reference to which the amount payable under a financial instrument or a financial contract, or the value of a financial instrument, is determined, or an index that is used to measure the performance of an investment fund;

“Covered Entity” means any Person, including its Cross-Border Establishment(s) and / or its provision of services or performance of activities on a cross border basis, that falls within the remit of any of the Authorities pursuant to the Laws and Regulations; for securitisation transactions, a ‘Covered Entity’ means an originator, sponsor, a securitisation special purpose entity (SSPE) or original lender (securitisation parties) or an institutional investor investing in a securitisation position (institutional investor) falling within the remit of an EEA Authority pursuant to the relevant Laws and Regulations, provided that another securitisation party or institutional investor in respect of the same securitisation transaction fall within the remit of the UK Authority under the relevant Laws and Regulations;

“Cross-Border Establishment” means a place of business of a Covered Entity which is not its head office and which has no legal personality, including a branch or a representative office, located within a jurisdiction, and over which the Authority of the other jurisdiction exercises supervisory responsibilities;

“Delegated Authority” means an Authority delegated with tasks by another Authority;

“Emergency Situation” means the occurrence or potential imminent occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets;

“Financial Market Infrastructure” means a multilateral system among participating institutions, including the operator of the system, used for the purposes of clearing, settling, or recording payments, securities, derivatives, or other financial transactions;

“Home Authority” means an Authority responsible for the initial authorisation or registration of a Covered Entity which operates through a Cross-Border Establishment or provides services or performs activities in the jurisdiction of another Authority; for securitisation transactions, ‘Home Authority’ means an Authority who has been designated as responsible to supervise compliance by a Covered Entity with the applicable Laws and Regulations;

“Laws and Regulations” means the provisions of the laws applicable in the jurisdictions of the Authorities, the regulations promulgated thereunder, and other regulatory requirements, that fall within the competence of the Authorities as financial markets regulators, including but not limited to the areas covered in Article 3(1) herein;

“Person” means a natural or legal person, or an unincorporated entity or association including but not limited to, partnerships and trusts;

“Prudential Regulator” means any national prudential authority in the jurisdiction of the relevant Authority whose competence is established under the relevant law;

“Remote Member” means a Covered Entity having remote access to a Trading Venue operated in the jurisdiction of the other Authority in accordance with the relevant Laws and Regulations;

“Requested Authority” means the Authority to whom a request is made under this MMoU;

“Requesting Authority” means the Authority making a request under this MMoU;

“Secure Electronic Means” means electronic methods of communications that ensure that completeness, integrity and confidentiality of information are maintained during transmission;

“Suspicious transactions and orders reports” or “STOR” means information on suspicious orders and transactions concerning financial instruments, including any cancellation or modification thereof, received by an Authority, and

“Trading Venue” means a regulated market, multilateral trading facility or organised trading facility, or any equivalent trading platforms.

## **Article 2. Purpose and general principles**

1. This MMoU is a statement of intent to consult, cooperate and exchange information in connection with the discharge of the responsibilities entrusted to the Authorities under the Laws and Regulations, in a manner consistent with, and permitted by, the laws and requirements that govern the Authorities.
2. This MMoU does not create any legally binding obligations, confer any enforceable rights, or supersede applicable legislation. This MMoU 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 MMoU.
3. This MMoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its functions. In specific circumstances, in accordance with applicable legislation of the Authorities, information may be obtained by an Authority directly from a Covered Entity operating in its jurisdiction. In such a case, a copy of any request to the Covered Entity is sent at the same time to the Home Authority.
4. The Authorities will, within the framework of this MMoU, provide one another with the fullest cooperation permissible to better enable them to carry out the responsibilities entrusted to them under the Laws and Regulations. Following consultation, assistance may be denied:

- a) where the cooperation would require an Authority to act in a manner that would violate the applicable legislation;
- b) where a request for assistance is not falling within the scope of this MMoU or is not made in accordance with the terms of this MMoU, or
- c) on reasons of public interest.

Assistance will not be denied based on the fact that the type of conduct described in the request for assistance would not be a violation of the Laws and Regulations of the Requested Authority.

In case of denial, the Requested Authority will provide the reasons for not granting the assistance.

Where the Requested Authority presents objective grounds by reasons of which the request cannot be fulfilled in part or in whole, the Authorities will consult with a view to reaching an understanding on the assistance to be provided.

5. No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to the other Authority.
6. The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MMoU should that be deemed necessary, for instance, in the event of changes in the Laws and Regulations in force or applied by either the UK Authority or the EEA Authorities.
7. To facilitate cooperation under this MMoU, the Authorities hereby designate contact points as set forth in Appendix B.

### **Article 3. Scope of cooperation**

1. The Authorities will cooperate with regard to the areas and entities falling within the Laws and Regulations, including, but not limited to:
  - a) misconduct, including insider dealing and trading, unlawful disclosure of inside information, market manipulation, misrepresentation or omission of material information, dissemination of misleading information and other fraudulent or manipulative practices or devices and attempts to commit such violations, including solicitation practices, mis-selling, handling of investor funds and customer orders, manipulation of Benchmarks, rates or indices;
  - b) the registration, issuance, purchase (including by public acquisition and takeover offers), offer, or sale of securities, derivatives and other financial instruments, disclosure, filing and reporting requirements, and the maintenance of accurate books and records related thereto;
  - c) market intermediaries, including investment and trading advisers, brokers, dealers, transfer agents, tied agents and eligible counterparties, associated or affiliated Persons thereof, custodians and other market participants who are required to be authorised or registered or exempt therefrom and any other Person to whom such entities delegate or outsource any of their functions;
  - d) administrators of and supervised contributors to Benchmarks referenced in financial instruments or financial contracts or used to measure the performance of investment funds;

- e) asset management companies, collective investment undertakings, depositaries and any other Person to whom such entities delegate or outsource any of their functions;
  - f) Trading Venues and data reporting services providers;
  - g) trading strategies, techniques and behaviours by market participants and trading restrictions on financial instruments; and
  - h) post-trading activities and processes, clearing and settlement entities, and Financial Market Infrastructures.
2. Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
- a) The initial application for authorisation or registration of a Covered Entity or exemptions therefrom in the other jurisdiction;
  - b) The acquisition, disposal or increase of holdings in a Covered Entity (including subsidiaries);
  - c) The on-going oversight of a Covered Entity;
  - d) Regulatory approvals or supervisory or enforcement actions taken by an Authority that may impact the operations of a Covered Entity;
  - e) Supervisory or enforcement actions which could have a negative impact on the orderly functioning or the operation of a Trading Venue including suspension, limitation or withdrawal of trading rights;
  - f) Application of conduct of business rules and marketing provisions, or behaviours that could adversely impact investor protection;
  - g) Market Surveillance and transparency requirements;
  - h) Verifications and controls in the context of delegation and outsourcing;
  - i) Regulatory approvals of prospectuses or of other offering documents; and
  - j) Public disclosure and transparency requirements applicable to listed companies.
  - k) Supervisory or enforcement action with respect to a securitisation transaction where one or more of the securitisation parties or institutional investors fall within the remit of an EEA Authority and one or more fall within the remit of the UK Authority pursuant to the respective applicable Laws and Regulations.

#### **Article 4. Exchange of Information**

1. The Requested Authority intends to provide the Requesting Authority, upon written request, with assistance in obtaining information not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to enable the Requesting Authority to discharge its responsibilities and assess compliance with its Laws and Regulations.
2. The information covered by this Article includes, without limitation:
  - a) Information and documents held in the files of the Requested Authority regarding the matters set forth in the request for assistance;
  - b) Findings from regulatory and/or supervisory reports prepared by the Requested Authority.

3. In circumstances where the information is not available in the files of the Requested Authority, the Requested Authority will obtain, through the most appropriate means, the requested information on behalf of the Requesting Authority, provided that the Requested Authority is authorised to collect such information.

#### **Article 5. Oral representations**

Upon request, the Requested Authority will obtain, through the most appropriate means, oral representations from any Person on facts or documents relating to the request for assistance, provided that the Requested Authority is authorised to obtain such representations. The Requested Authority will ensure appropriate documentation of the oral representations collected.

#### **Article 6. On-site visits**

1. In case of information to be obtained through on-site visits, including those performed in the framework of supervisory programmes according to Article 26, the Authorities should discuss and reach an understanding on the terms of such on-site visits, taking into full account each other's sovereignty, applicable legislation and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
  - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and the scope of any on-site visit. The Requested Authority will decide whether the visiting officials will be accompanied by its officials during the visit.
  - b) When establishing the scope of any proposed visit, the Requesting Authority will give due and full consideration to the supervisory activities of the Requested Authority and any information that was made available or is capable of being made available by the Requested Authority.
  - c) The Authorities will assist each other in reviewing, interpreting and analysing the contents of public and non-public documents and obtaining information from relevant directors, senior management, employees of the Covered Entities, or any other Person.
2. In circumstances where the Authorities jointly perform an on-site visit they will give each other an opportunity to consult and discuss the findings arising from the on-site visit.
3. In circumstances where only one Authority performs the on-site visit, the Authority which has conducted the on-site visit will share its findings and / or report on the on-site visit with the other Authority.

#### **Article 7. Requests for assistance**

1. To the extent possible, a request pursuant to Articles 4 to 6 should be made in writing, by post, fax or Secure Electronic Means and addressed to the relevant contact point identified in Appendix B. A request generally should specify the following:
  - a) The information sought by the Requesting Authority, including specific questions to be asked, if possible and known, the Person(s) from whom the information should be sought, and an indication of any sensitivity about the request;

- b) A concise description of the facts underlying the request and the supervisory purpose for which the information is sought, including the applicable provisions of the Laws and Regulation behind the supervisory activity; and
  - c) The desired time period for reply and, if necessary, the urgency thereof.
- 2. The Requested Authority will send the acknowledgement of receipt to the contact point identified in the request within ten (10) working days of receipt of the written request for assistance and include, if possible at that stage, an estimated date of response.
- 3. The Authorities will make their best efforts to provide information or deal with requests for assistance under this MMoU in a timely manner.
- 4. In Emergency Situations as well as in urgent cases, the Authorities will endeavour to notify each other of the Emergency Situation or of the urgency and communicate information to the other as would be appropriate in the particular circumstances, taking into account all relevant factors, including the status of efforts to address the Emergency Situation. During Emergency Situations or for urgent cases, requests for information may be made in any form, including orally, provided such communication is confirmed in writing as promptly as possible.

#### **Article 8. Notifications of changes in Laws and Regulations**

The Authorities intend to also advise each other upon request or on own initiative on any major aspect of their regulatory and supervisory systems and notify each other of any major change to the Laws and Regulations which is likely to have a significant bearing on the activities of Covered Entities. Insofar as changes affecting all the EEA Authorities are concerned, the EEA Authorities will coordinate the notification to the UK Authority.

#### **Article 9. Unsolicited assistance**

Each Authority will make all reasonable efforts to provide the other Authority, in as much detail as possible, without prior request and in advance to the extent practicable, with any information likely to be of assistance to the other Authority for the purposes of carrying out its responsibilities under the Laws and Regulations, including information concerning:

- a) Any known material event that could have a significant effect on the operation of a Covered Entity or could otherwise adversely impact investor protection, financial stability or the integrity and orderly functioning of the markets in the jurisdiction of the other Authority;
- b) Suspicious Transactions and Orders Reports falling within the remit of the other Authority;
- c) Enforcement or regulatory actions, including investigations or sanctions which could have, in its reasonable opinion, a material effect on a Covered Entity, including the withdrawal, suspension or modification of relevant authorisation or registration, concerning or related to such Covered Entity.

#### **Article 10. Outsourcing/delegation**

Where a Covered Entity outsources or delegates any of its functions (in particular, but not limited to, critical or important operational functions, portfolio management and/or risk management) to a Person located in the other jurisdiction, the Home Authority of the relevant Covered Entity may request assistance in accordance with this MMoU, from the Authority in which jurisdiction the outsourcee/delegatee is established. Such assistance should allow the home Authority to undertake its

supervisory tasks, receive information on the supervisory regime of the requested authority and ensure all entities are effectively supervised.

#### **Article 11. Cooperation on enforcement**

1. This MMoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (IOSCO MMoU), to which each of the Authorities is a signatory. As such, assistance for enforcement purposes should be provided in accordance with the provisions of the IOSCO MMoU where applicable. In addition, the Authorities agree that assistance should also be provided in the circumstances listed in paragraph (2) below.
2. The Requested Authority should, as far as its applicable legislation permits, assist the Requesting Authority where it is necessary to enforce the Laws and Regulations breached or suspected to have been breached by a Covered Entity established in the jurisdiction of the Requested Authority. In particular, this assistance should be provided by the Requested Authority at least when the Requesting Authority has:
  - a) required a Covered Entity to cease any practice that is contrary to the requirements set out in the Laws and Regulations applicable in the jurisdiction of the Requesting Authority or to which it committed to comply within the jurisdiction of the Requesting Authority;
  - b) requested the freezing or the sequestration of assets of a Covered Entity or its clients, or a Remote Member;
  - c) requested existing recordings of telephone conversations, electronic communications or data traffic records held by a Covered Entity;
  - d) requested existing data traffic records held by a telecommunications operator;
  - e) requested the lists of Persons having access to inside information drawn up - pursuant to the Laws and Regulations - by Persons located in the Requested Authority's jurisdiction;
  - f) requested a temporary or permanent prohibition from carrying out a professional activity in relation to a Covered Entity or a Person;
  - g) adopted any type of measure, including those adopted on an urgent or precautionary basis, to ensure that a Covered Entity or a Person continues to comply with the requirements set out in the Laws and Regulations or otherwise applicable to it or that market transparency, efficiency, integrity, orderly trading, as well as market confidence and investor protection are preserved;
  - h) suspended or removed a financial instrument from trading;
  - i) prohibited trading of a financial instrument;
  - j) suspended the issuance, repurchase or redemption of financial instruments of Covered Entities established in the jurisdiction of the Requested Authority;
  - k) taken measures to ensure that the public is correctly informed;
  - l) suspended or prohibited the marketing, offer to the public or sale of financial instruments or structured deposits;
  - m) adopted product intervention measures;
  - n) imposed sanctions on a Person as a consequence of a breach of the Laws and Regulations applicable in the jurisdiction of the Requesting Authority;

- o) prohibited, restricted or imposed conditions on Persons entering into short sales or any other transaction which creates, or relates to, a financial instrument and the effect or one of the effects of that transaction is to confer a financial advantage on the Person in the event of a decrease in price;
  - p) restricted the ability of Persons to enter into sovereign credit default swap transactions or limited the value of sovereign credit default swap positions that those Persons are permitted to enter into.
3. In the cases referred to in paragraph (2) above, the safeguards on the sharing, confidentiality, and permissible use of information provided in the IOSCO MMoU apply.



## **Section II – Data protection, permissible use of information and confidentiality**

### **Article 12. Data Protection**

The Authorities acknowledge that the transfer of personal data will take place in accordance with the conditions laid down in the relevant data protection legislation applicable to the UK Authority and to the EEA Authorities.

### **Article 13. Permissible uses of information**

1. The Requesting Authority may use non-public information obtained under this MMoU solely for the purpose of discharging the responsibilities entrusted to it under the Laws and Regulations, including supervising Covered Entities, ensuring compliance with the Laws and Regulations, protecting investors, assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.
2. The Authorities recognize that while information is not to be gathered under this MMoU for enforcement purposes - with the exception of Article 11 - subsequent to receiving information an Authority may wish to use the information for enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU or another MMoU or other agreement providing an equivalent degree of cooperation in enforcement matters.

### **Article 14. Confidentiality and onward sharing of information.**

1. Except for disclosures in accordance with the MMoU, including permissible use of information under the previous articles, each Authority will keep confidential information shared under this MMoU, requests made under this MMoU, the contents of such requests, and any other matters arising under this MMoU. The terms of this MMoU are not confidential.
2. To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been furnished under this MMoU. Prior to compliance with a third party demand, the Requesting Authority intends to assert all appropriate legal exemptions or privileges with respect to such information as may be available.
3. In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MMoU with Prudential Regulators, the Central Bank or with the Ministry of Finance (or authority carrying out a similar function) in its jurisdiction where competent for supervision and enforcement pursuant to the relevant Laws and Regulations. In these circumstances and to the extent permitted by law:
  - a) The Requesting Authority will notify the Requested Authority;
  - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Prudential Regulator's, the Central Bank's or Ministry of Finance's (or authority carrying out a similar function) use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without the prior consent of the Requested Authority.
4. Except as provided in paragraphs (2) and where sharing information with the Central Bank or Prudential Regulators, in accordance with paragraph (3) of this Article, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-

public information received under this MMoU. If consent is not obtained from the Requested Authority, the Authorities will discuss the reasons for withholding approval of such use and the circumstances, if any, under which the intended use by the Requesting Authority might be allowed. The Requesting Authority may share confidential information obtained under this MMoU with its Central Bank or Prudential Regulators in accordance with this paragraph and paragraph (3) of this Article on the condition that such disclosure as well as its scope and purpose were indicated in the request for assistance in response to which the information was obtained. If the Requesting Authority intends to share confidential information obtained under this MMoU with its Central Bank and Prudential Regulators for any purpose other than that stated in the initial request for assistance, it must obtain the prior consent of the Requested Authority.

5. The Authorities acknowledge that the sharing or disclosure of non-public information, including but not limited to deliberative and consultative materials, pursuant to the terms of this MMoU, will not constitute a waiver of privilege or confidentiality of such information.

#### **Article 15. Special rules on onward sharing of information in the EU internal market.**

1. Article 14 paragraph 4 does not apply where one of the signatories belonging to the EEA is required to share information with EEA signatories to this MMoU, the ESRB (European Systemic Risk Board), ESMA (European Securities and Markets Authority), EBA (European Banking Authority) or EIOPA (European Insurance and Occupational Pensions Authority) under applicable European Union legislation (including domestic implementation) within the remit of the EEA authorities.
2. In such cases, the following conditions would apply:
  - a) All the information exchanged between the EEA signatories to this MMoU, the ESRB, ESMA, EBA or EIOPA will be considered confidential, except where the Requested Authority states at the time of communication that such information may be disclosed or where such disclosure is necessary for legal proceedings;
  - b) The EEA signatories to this MMoU, ESMA, EBA, EIOPA or the ESRB will only use the information for the purposes envisaged by the Laws and Regulations and in accordance with the founding regulations of ESMA and the ESRB.

#### **Article 16. Delegation of tasks**

In certain circumstances, an Authority may delegate one or more of its tasks to a Delegated Authority, subject to the agreement of the latter. Delegation of tasks will not affect the responsibility of the delegating Authority including in applying the provisions of Article 14 on confidentiality and onward sharing of information.

### **Section III – Amendments to the MMoU, termination of the participation of an Authority and entry into force**

#### **Article 17. Amendments to the MMoU and termination of the participation of an Authority of the MMoU; Successor authorities**

1. Amendments to this MMoU, including the addition of new Appendices, can be made by written agreement of the Authorities.
2. An Authority may terminate its participation in this MMoU at any time by giving at least 30 days prior written notice to the other Authorities.

3. In the event that an Authority decides to terminate its participation in this MMoU, cooperation and assistance in accordance with this MMoU will continue until the expiration of 30 days after that Authority gives written notice to the other Authorities of its intention to discontinue cooperation and assistance hereunder. If any Authority gives a termination notice, cooperation and assistance in accordance with this MMoU will continue in respect to all requests for assistance that were made, or information provided, before the effective date of notification until the Requesting Authority terminates the matter for which assistance was requested.
4. In the event of the termination of an Authority's participation in this MMoU, information obtained under this MMoU will continue to be treated confidentially in the manner prescribed under Section II (*Data protection, permissible use of information and confidentiality*) and cooperation under this MMoU will continue among the other Authorities.
5. Where the relevant functions of a signatory to this MMoU are transferred or assigned to another authority or authorities, the terms of this MMoU will apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MMoU or for the successor to become a signatory to the MMoU. This will not affect the right of the successor authority to terminate the MMoU as provided hereunder if it wishes to do so.

#### **Article 18. Amendments to Appendix B**

Amendments to the relevant contact point listed in Appendix B can be made by each Authority giving written notice to the other Authorities.

#### **Article 19. Entry into force**

This MMoU enters into force as of the date on which the transition period referred to in Article 126 of the Withdrawal Agreement between the European Union and the UK<sup>1</sup> ends.

---

<sup>1</sup> Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, OJ C 3841 , 12.11.2019, p. 1.

## **Part II – Specific Provisions**

### **Section I – Definitions and principles**

#### **Article 20. Definitions**

For the purpose of this Part II:

“Entities with Cross Border Operations” means a Covered Entity with a Cross-Border Establishment and/or that is providing services and/or performing activities relevant to the Laws and Regulations on a cross-border basis in the jurisdiction of another Authority.

#### **Article 21. Content and supplementation of Part II of the MMoU**

1. Without prejudice to the provisions on exchange of information and cooperation established in Part I above, Part II of this MMoU provides for specific cooperation arrangements in relation to Entities with Cross Border Operations and on matters with direct cross border implications.
2. Part II of this MMoU can be supplemented with specific bilateral additions between an EEA Authority, on one hand, and the UK Authority, on the other hand, including, but not limited to, written cooperation and coordination arrangements, agreed upon for the purposes of cooperating in the supervision of an Entity with Cross Border Operations.

### **Section II – Cooperation concerning Entities with Cross Border Operations**

#### **Article 22. Cooperation in relation to registration and authorisation procedures**

1. The Authorities intend to cooperate during the registration and/or authorisation processes of Entities with Cross Border Operations and in the case of withdrawal of a registration or authorisation thereof.
2. In particular, the Authorities intend to notify each other of applications for approval to (i) establish a Cross-Border Establishment and/or (ii) provide services and/or perform activities on a cross-border basis in their jurisdictions. The Authorities intend to consult each other before granting authorisation (i) to a Cross-Border Establishment of a Covered Entity authorised in the other jurisdiction or (ii) to provide services and/or perform activities on a cross-border basis to a Covered Entity authorised in the other jurisdiction.
3. During the process of authorisation of a Covered Entity and / or its Cross-Border Establishment, the Requested Authority, upon request, will inform the Requesting Authority of, *inter alia*, the programme of operation and type of business envisaged by the Cross-Border Establishment, the amount of own funds and the historic compliance performance of the Covered Entity, as well as details of the investor compensation or other guarantee schemes in the home jurisdiction, if applicable. In addition, the Requested Authority intends to inform the Requesting Authority of whether the Covered Entity is entirely subject to and complies with the Laws and Regulations, and whether it can be expected, in light of its administrative structure and internal controls, to run the Cross-Border Establishment in an orderly, prudent and proper manner.

### **Article 23. Cooperation concerning qualifying holdings assessments, fitness and probity assessment**

1. The Authorities intend to notify each other and consult with each other in case of applications for approval to acquire, dispose of or increase holdings in an Entity with Cross Border Operations within the jurisdiction of the other Authority, where the Authorities hold or have the powers to access such information.
2. Upon request, the Authorities will inform each other about any relevant information on the proposed applicant, such as, for example, whether the applicant complies with the Laws and Regulations. The Authorities will also, upon request, assist each other with verifying or supplementing any information submitted by the applicant.
3. The Authorities will share information on the fitness and probity of prospective directors and managers, qualifying shareholders, and, where relevant, management body members and key function holders, of an Entity with Cross Border Operations.

### **Article 24. Specific information**

For the purposes of on-going supervision of a specific Entity with Cross Border Operations, taking into account both its relevance and significance, the Authorities may agree to share and to discuss with each other regularly if appropriate, any significant information on such Entity with Cross Border Operations which is likely to be relevant in the performance of ongoing supervision. Such information which the Authorities intend to exchange could include, where relevant, without limitation:

- a) Information that would permit the Requesting Authority to verify that the Entity with Cross Border Operations is able to comply and actually complies with obligations and requirements set out in the Laws and Regulations in the jurisdiction of the Requesting Authority;
- b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Entity with Cross Border Operations, for the financial stability of systemically relevant financial institutions, market confidence, investor protection and the orderly functioning and efficiency of the markets in which such Entities with Cross Border Operations are active;
- c) Information relevant to the governance, the financial, organisational and operational conditions of the Entity with Cross Border Operations, including, for example, on:
  - (i) liquidity or other prudential measures, capital regulatory reports, including internal ratings-based data as reported to the Authorities;
  - (ii) internal organisation, risk management and other internal control areas, such as:
    - A. Information on risk management policies and procedures including, but not limited to, arrangements on conflicts of interest, internal control mechanisms, administrative and accounting procedures, arrangements for information processing systems and security mechanisms, client asset protection and business continuity and contingency arrangements;
    - B. management information - insofar as it is relevant to the Cross-Border Establishment - including but not limited to regular reports to the group management (e.g. risk reports, reports on IT, internal audit reports, internal control reports, country-level reports, and operational and compliance risk reports), any upcoming major changes in IT systems;

- C. information regarding major operational risk incidents and operational risk losses including any substantial faults or disruptions in services provided to customers or IT systems, including those caused by cyber-attacks or information security incidents / threats, as well as disruptions or faults that damage or jeopardise the capacity of the Entity with Cross Border Operations or group to continue its business activities or fulfil its obligations;
  - D. the external auditor's findings if relevant in order to understand the group's overall risk profile or the risk profile of the Cross-Border Establishment specifically, and reports submitted to the group and the Cross-Border Establishment pursuant to inspections, and any other supervisory remarks, as well as communication between the group and the relevant Authority in order to obtain an understanding or knowledge of the group's overall risk profile or for the Cross-Border Establishments specifically;
- (iii) material outsourcing and delegation;
  - (iv) distribution of products, product governance, identification of target markets, conflicts of interest, client categorisation, best execution policy, compensation plans and incentives, inducements, use of tied agents;
  - (v) recovery plans;
- d) Relevant regulatory information and filings that an Entity with Cross Border Operations is required to submit to the Requested Authority including, for example: interim and annual financial statements;
  - e) Regulatory reports prepared by the Requested Authority, including, for example: examinations reports, findings, or information drawn from such reports regarding Entities with Cross Border Operations;
  - f) Information concerning the regular review of compliance with the initial conditions of registration or authorisation, as well as information in relation to applications for additional permissions and notifications of changes, including, but not limited to, internal organisation or governance;
  - g) Information on transactions or services provided in the jurisdiction of the Requesting Authority.

## **Article 25. Meetings**

To enhance the quality of cooperation and assistance, the Authorities may:

- a) Convene ad hoc meetings to discuss material issues of common concern and/or coordinate actions, if deemed appropriate, for instance where specific conduct may constitute a breach in both jurisdictions, or to address supervisory problems concerning an Entity with Cross Border Operations in the respective other jurisdiction(s), on the basis of a material supervisory concern;
- b) Agree to conduct regular meetings that concern Entities with Cross Border Operations relevant to their jurisdictions.

## **Article 26. Supervisory programmes**

1. To facilitate the ongoing supervision of Entities with Cross Border Operations and to better understand the supervisory regime applied by the Requested Authority, the Authorities may agree to establish supervisory programmes for specific Entities with Cross Border

Operations. Such supervisory programmes may cover relevant tasks and activities, such as:

- a) pre-planned meetings between the Authorities;
  - b) pre-planned cross-border on-site visits of the Entities with Cross Border Operations;
  - c) pre-planned activities in relation to the various supervisory approvals and authorisations, including fitness and probity assessments, etc.
2. The above activities may also be performed in the framework of supervisory colleges established under Article 27 of this MMoU.

#### **Article 27. Organisation and functioning of colleges of supervisors**

1. If appropriate, the Authorities may agree to establish a college of supervisors in respect of specific Entities with Cross Border Operations which are supervised by the Authorities.
2. The establishment and functioning of a college of supervisors, and terms of the participation of each of the Authorities will be based on written cooperation and coordination arrangements specifying operational details of the functioning of the college.
3. Within the framework of colleges of supervisors, the Authorities may consider delegating tasks when developing the college's supervisory examination programme. Delegation of tasks does not alter the overall responsibilities of the Authorities.

### **Section III – Cooperation concerning other matters with direct cross border implications**

#### **Article 28. Direct requests to Remote Members**

1. The Authorities may directly contact Remote Members of a Trading Venue.
2. In accordance with Article 2(3) of this MMoU, in case of direct request made to a Remote Member, the relevant Authority will inform the Home Authority of the Remote Member.
3. Authorities commit, where Remote Members do not reply to direct requests from the Requesting Authority, to provide the necessary information to each other, including information about:
  - a) algorithmic trading strategies and the related systems and controls, and
  - b) market making activities and strategies,on Trading Venues operated in the jurisdiction of the Requested Authority.

#### **Article 29. Other measures concerning financial instruments traded in Trading Venues in multiple jurisdictions**

Each Authority intends to inform, as soon as possible, and submit relevant documentation to the other relevant Authority when, pursuant to the Laws and Regulations, the following measures concerning financial instruments which are also traded in Trading Venues operating within the jurisdiction of the other Authority are adopted. Such measures include, without limitation:

- a) Suspension of trading in a financial instrument;
- b) Requesting the notification of changes in fees linked to lending contracts on specific financial instruments or classes of financial instruments;

- c) Imposition of conditions or other restrictions concerning the creation of net short positions or the entering into short selling transactions;
- d) Restriction of the ability of Persons to enter into sovereign credit default swap transactions or the limitation of the value of sovereign credit default swap positions that those Persons are permitted to enter into.

Signed in two original copies each in the English language and signed by the Authorities' duly authorised representatives.



**APPENDIX A**  
**List of Authorities**

<b>UK Authority</b>	
The Financial Conduct Authority	
<b>EEA Authorities</b>	
Autoriteit Financiële Markten	The Netherlands
Autorité des marchés financiers	France
Bundesanstalt für Finanzdienstleistungsaufsicht	Germany
Central Bank of Ireland	Ireland
Comissão do Mercado de Valores Mobiliários	Portugal
Comisión Nacional del Mercado de Valores	Spain
Autoritatea de Supraveghere Financiară	Romania
Commissione Nazionale per le Società e la Borsa	Italy
Commission de Surveillance du Secteur Financier	Luxembourg
Επιτροπή Κεφαλαιαγοράς Κύπρου	Cyprus
Česká národní banka	Czech Republic
Finansinspektionen	Sweden
Finanssivalvonta	Finland
Finanstilsynet	Denmark
Finanšu un kapitāla tirgus komisija	Latvia
Finanzmarktaufsicht	Austria
Finantsinspektsioon	Estonia
Komisja Nadzoru Finansowego	Poland
Комисията за финансов надзор	Bulgaria
Financial Services and Markets Authority	Belgium
Ελληνική Επιτροπή Κεφαλαιαγοράς	Greece

Lietuvos Bankas	Lithuania
Malta Financial Services Authority	Malta
Národná banka Slovenska	Slovakia
Magyar Nemzeti Bank	Hungary
Agencija za trg vrednostnih papirjev	Slovenia
Hrvatska agencija za nadzor financijskih usluga	Croatia
Fjármálaeftirlitið	Iceland
Finanstilsynet	Norway
Finanzmarktaufsicht	Liechtenstein