

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN THE**

**INSURANCE AUTHORITY OF THE HONG KONG**

**SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA**

**AND THE**

**OFFICE OF THE SUPERINTENDENT OF FINANCIAL INSTITUTIONS CANADA**

**CONCERNING MUTUAL COOPERATION**

1. The Insurance Authority of the Hong Kong Special Administrative Region of the People's Republic of China (HKIA) and the Office of the Superintendent of Financial Institutions Canada (OSFI) (collectively, the Authorities) have reached the following understanding in order to establish an arrangement for the sharing of information to facilitate the performance of their respective duties and to promote the safe and sound functioning of insurance institutions with cross-border establishments in their respective jurisdictions.

2. The Authorities express, through this understanding, their willingness to cooperate with each other on the basis of mutual trust and understanding in the supervision of cross-border establishments within their respective jurisdictions. A cross-border establishment is defined as a branch, a subsidiary or any other entity of an insurer supervised by one Authority (the host Authority), which gives rise to the need for consolidated or group-wide supervision by the other Authority (the home Authority).

### **The Authorities**

3. The OSFI was established in July 1987 by the Office of the Superintendent of Financial Institutions Act (OSFI Act). Under this Act, the OSFI is responsible for regulating and supervising all federally chartered, licensed or registered banks, insurance, trust and loan companies, cooperative credit associations and fraternal benefit societies in Canada. The Superintendent reports to the Minister of Finance.

4. The HKIA was established by the Insurance Companies Ordinance under which the HKIA is responsible for regulating and supervising the insurance industry of the Hong Kong Special Administrative Region for the promotion of the general stability of the insurance industry and for the protection of existing and potential policyholders. The HKIA reports to the Secretary for Financial Services and the Treasury.

### **Scope and General Principles**

5. The provisions of this Memorandum of Understanding are not intended to create legally binding obligations or supersede domestic laws.

6. The Authorities will, within the framework of this Memorandum of Understanding, provide each other with the fullest assistance possible to promote the safe and sound functioning of insurance institutions.

7. The Authorities recognise the importance and desirability of mutual assistance and exchange of information. Information will be shared to the extent reasonable and subject to

any relevant statutory provisions, including those restricting disclosure. In addition, the provision of or request for information under this understanding may be denied on the grounds of prejudice to essential interests or when disclosure would interfere with an ongoing investigation. Where a request for assistance is denied, or where assistance is not available under domestic law, the requested Authority will provide the reasons for not granting the assistance.

8. Requests for assistance will be made in writing by designated employees of the Authority and will be addressed to the requested Authority's contact persons. However, where the Authorities perceive a need for expedited action, requests may be initiated in any form but should be confirmed subsequently in writing.

## **Sharing of information**

9. Information-sharing includes contact during the authorisation and licensing process, in the supervision of the on-going activities of such entities and in the handling of problem institutions.

10. In connection with the authorisation process:

- (a) the host Authority will notify the home Authority, without delay, of applications for approval to establish offices or make acquisitions in the host jurisdiction;
- (b) upon request, the home Authority will inform the host Authority whether the applicant insurance company is in substantial compliance with applicable laws and regulations and whether it may be expected, given its administrative structure and internal controls, to manage the cross-border establishment in an orderly manner. The home Authority will also, upon request, assist the host Authority with verifying or supplementing any information submitted by the applicant;
- (c) upon request, the home Authority will inform the host Authority about the nature of its regulatory system and the extent to which it will conduct consolidated or group-wide supervision over the applicant insurance company. Similarly, the host Authority will inform the home Authority about the nature of its regulatory system and the extent to which it will supervise the cross-border establishment of the applicant institution; and
- (d) to the extent permitted by law, the home and host Authorities will share information on the fitness and properness of prospective managers of a cross-border establishment.

11. In connection with the ongoing supervision of their cross-border establishments, the Authorities intend to:

- (a) provide relevant information to their counterpart regarding material developments or supervisory concerns in respect of the operations of a cross-border establishment;
- (b) respond to requests for information on their respective national regulatory systems and inform each other about major changes, in particular those which have a significant bearing on the activities of cross-border establishments;
- (c) inform their counterpart of material administrative penalties imposed, or other formal enforcement action taken, against a cross-border establishment. Prior notification will be made, as far as practicable and subject to applicable laws; and
- (d) facilitate the transmission of any other relevant information that might be required to assist with the supervisory process.

## **On-site inspections**

12. The Authorities recognise that cooperation is particularly useful in assisting each other in carrying out on-site inspections<sup>1</sup> of cross-border establishments in the host jurisdiction. The home Authority will undertake to notify the host Authority of plans to examine a cross-border establishment or to appoint a third party to conduct an examination on its behalf, and to indicate the purposes and scope of the visit. The host Authority will allow the home Authority to conduct on-site inspections. As may be mutually agreed between the parties, examinations may be carried out by the home Authority alone, or accompanied by the host Authority. Following the inspection, an exchange of views should take place between the examination team and the host Authority.

## **Protection of information**

13. The Authorities recognize that mutual trust can only be achieved if exchanges of information can flow with confidence in both directions. The Authorities will take all possible steps to preserve the confidentiality of the information received. In this regard, employees of both Authorities are bound to hold confidential all information obtained in the course of their duties. Any confidential information received from the other Authority will be used exclusively for lawful supervisory purposes. The Authorities acknowledge that confidential information, including information they receive from each other, may be passed to related government agencies set out in Annex A to this document.

14. An Authority that has received confidential information from the other Authority may subsequently receive a request for that information from a third party, including a third party supervisory authority, who has a legitimate common interest in the matter. Prior to passing information to the third party, the Authority will consult with and obtain agreement from the Authority that originated the information, who may attach conditions to the release of information, including that the third party recipient be bound to hold the information confidential.

15. In the event that an Authority is legally compelled to disclose to a third party, including a third party supervisory authority, information that has been provided in accordance with this understanding, this Authority will promptly notify the Authority that originated the information, indicating what information it is compelled to release and the circumstances surrounding its release. If so required by the originating Authority, the Authority will use its best endeavours to preserve the confidentiality of the information to the extent permitted by law. The Authorities will inform one another of the circumstances in which they may be subject to legal compulsion to release information obtained.

## **Ongoing Coordination**

16. The Authorities agree to promote their cooperation through visits for information purposes. In addition, the Authorities agree to pursue areas where the training of staff at either agency would benefit from input and support by the other agency in order to reinforce sound insurance supervisory practices in both jurisdictions.

17. The Authorities will conduct meetings as often as appropriate to discuss issues concerning insurance companies that maintain cross-border establishments in the respective jurisdictions, and to review the effectiveness of cooperation arrangements.

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<sup>1</sup> The words "inspection" and "examination" are used here interchangeably.

**Modifications and Term**

18. This understanding will continue indefinitely subject to modification by the mutual consent of the Authorities or termination by either party with 30 days advance notice in writing. After termination, the confidentiality provisions will continue to apply to any information provided under this understanding prior to termination.

19. Annexes A, B and C will be reviewed at least annually and reconfirmed or amended as necessary to ensure that the information therein remains current.

**On behalf of:**

**Insurance Authority of the Hong Kong Special Administrative Region of the People’s Republic of China**

**By: Dated:**  
**Richard Yuen, Commissioner of Insurance**

**The Office of the Superintendent of Financial Institutions Canada**

**By: Dated:**  
**Julie Dickson, Assistant Superintendent, Regulation Sector**

**Annexes**

- A – Related government agencies that may be provided confidential supervisory information
- B – Authority contact persons
- C – List of cross-border establishments