

**Memorandum of Understanding (MoU)**  
**on**  
**Co-operation for the Supervision of Clearing Service Providers**  
**between**  
**the Financial Services Authority**  
**and**  
**Finanstilsynet and**  
**Danmarks Nationalbank**  
**and**  
**Finanssivalvonta and**  
**Suomen Pankki**  
**and**  
**Finansinspektionen and**  
**Sveriges Riksbank**

## **Preamble**

A. The Authorities acknowledge that Clearing Service Providers which are principally regulated by the UK FSA intend to or will offer clearing services in Denmark, Finland or Sweden.

B. The Authorities wish to enter into this MoU to further facilitate, through the exchange of information and any other assistance, their co-operation in fulfilling their respective functions with respect to the Clearing Service Providers.

C. The following Authorities in Denmark, Finland, Sweden and the United Kingdom have or will have the following functions with respect to the Clearing Service Providers:

(a) In Denmark:

The Finanstilsynet undertakes supervision in Denmark of investment exchanges and multilateral trading facilities as well as providers of clearing services and settlement services.

Under the Danmarks Nationalbank Act, Nationalbanken is responsible for contributing to the efficiency and stability of financial markets, including overseeing payment systems and providers of clearing services and settlement services.

Both authorities have entered into a MoU regarding stability of the financial system and supervision and oversight of payment and securities settlement systems in accordance with international standards.

(b) In Finland:

The Finanssivalvonta (FIN-FSA) is responsible for the supervision of investment exchanges and multilateral trading facilities as well as Clearing and Settlement in Finland. It has a regulatory interest in all persons offering trading and post trading services, either to participants in Finland or cross border from Finland.

Based on the Treaty and Act on the Bank of Finland (214/1998) the Bank of Finland (BoF) shall act as part of the European System of Central Banks. On the basis of section 3 of the Act the BoF has

legal competencies regarding securities clearing and settlement systems. The BoF shall participate in maintaining the reliability and efficiency of the payment system and overall financial system and development. Accordingly, the BoF has both an oversight and a development role regarding securities clearing and settlement systems. The BoF shall be responsible for the oversight of clearing services provided to the Finnish securities market.

(c) In Sweden:

Finansinspektionen (FI) is responsible for the supervision of investment exchanges and multilateral trading facilities as well as providers of clearing and settlement services.

Sveriges riksbank has been assigned the task of promoting a safe and efficient payment system under the Sveriges riksbank Act (1988:1385) – Section 1, Article 2). One of Sveriges riksbank's tasks in promoting a safe and efficient payment system is to oversee the financial infrastructure. Sveriges riksbank's oversight of the financial infrastructure includes assessing the clearing and settlement systems that are subject to oversight according to Sveriges riksbank.

The Sveriges riksbank and FI (and other Swedish authorities) have entered into a MoU on cooperation in issues pertaining to financial stability and crisis management.

(d) In the United Kingdom (UK):

The Financial Services Authority ("the FSA") is responsible for the supervision of Clearing Service Providers operating in the UK through its regulation of recognised clearing houses under the Financial Services and Markets Act 2000 (FSMA). The UK is undergoing regulatory reform which means that the Bank of England will be taking over the responsibility for the supervision of Clearing Service Providers during 2013.

D. It is expected that the Danish Authorities will become parties to the MoU after the Finnish Authorities, the Swedish Authorities and the UK Authority.

## Interpretation

1. In this MoU:

“Authorities” means the authorities listed in paragraph C of the preamble and includes any successor authorities.

“Clearing Service Provider” means an entity that provides clearing services and is subject to the principal regulatory Supervision of UK Authorities (as a Recognised Clearing House) and also provides clearing services in any of Denmark, Finland or Sweden.

“Danish Authorities” means Finanstilsynet and Danmarks Nationalbank.

“Finnish Authorities” means the Finassivalvonta and Suomen Pankki.

“Participant” means a party contracting with a Clearing Service Provider for clearing purposes

“Person” means a natural person, legal entity, partnership or unincorporated association.

“Recognised Clearing House” means a Clearing Service Provider recognised under section 285 and 290 of the Financial Service Market Act 2000.

"Requested Authority" means the Authority to whom a request is made under this MoU.

"Requesting Authority" means the Authority making a request under this MoU.

“Supervision” means regulation, supervision and/or oversight as set out in paragraph C.

“Swedish Authorities” means Finansinspektionen and Sveriges riksbank.

“UK Authorities” means the Financial Services Authority.

### **Purpose of the MoU**

2. The purpose of this MoU is to facilitate co-operation and to reduce regulatory overlap between Authorities in order to promote effective Supervision by the Authorities of Clearing Service Providers which are regulated principally in the UK and which provide clearing services in

Denmark, Finland or Sweden. The Authorities shall specify each Clearing Service Provider in respect of which this co-operation shall apply in a separate letter which will be annexed to this MoU.

### **Effect of the MoU**

3. This MoU does not modify or supersede any laws or regulatory requirements in force, or applicable in, Denmark, Finland, Sweden or the United Kingdom. It is a statement of intent of the Danish, Finnish, Swedish and UK Authorities and it does not create any legally binding obligations, or fetter the discretion of the Authorities in any way in the discharge of their functions. It is also without prejudice to the individual responsibilities or autonomy of any Authority. This MoU does not affect any other arrangements between the Authorities or any arrangements between the Authorities and a Clearing Service Provider or third parties.

### **Principles for the Supervision of Clearing Service Providers**

4. The Authorities are or will be, in relation to Clearing Service Providers, responsible for performing their respective functions set out in paragraph C of the preamble.
5. Any division of responsibility for the Supervision of Clearing Service Providers shall be based on the respective legal or supervisory responsibilities of each of the Authorities.

### **Principles for co-operation between the Authorities**

6. The Authorities agree to designate Authorities that are in charge of the Co-operation between the various Authorities for the purpose of this MoU. Considering that the Clearing Service Provider is subject to principal regulatory Supervision of UK Authorities, the Authorities agree to designate the UK Authorities as co-ordinator for the purpose of the MoU, without prejudice to the respective legal duties of the other Authorities. The co-operation intends to follow the principles for co-operation between authorities according to the CPSS-IOSCO Principles for financial market infrastructures, Responsibility E.
7. The Authorities will co-operate closely to contribute to efficient Supervision, always subject to its applicable laws, regulation and requirements and overall policy. In particular, they will

exchange information as further specified below in a timely way to assist each other to perform their respective functions relating to the Supervision of Clearing Service Providers. The Authorities will endeavour to coordinate requests and communication with the Clearing Service Provider pertaining to the Supervision of the Clearing Service Provider through the UK Authorities. A contact point provided by the UK Authorities will be designated and will be in charge of co-ordinating the exchange of information.

8. Any of the Authorities will provide any other Authority with relevant information about any matter that the Authority considers is likely to assist the other Authority to perform its functions relating to the Supervision of Clearing Service Providers, always subject to its applicable laws, regulations and requirements and overall policy.
9. Any of the Authorities may request that another Authority provides relevant information about any matter that the Requesting Authority considers is likely to assist it in performing its functions relating to the Supervision of Clearing Service Providers.
10. Without limiting the scope of clauses 7, 8, and 9, information to be provided under those clauses should include information relevant to:
  - (a) the ability of a Clearing Service Provider to meet its financial requirements;
  - (b) the fitness or propriety of a Clearing Service Provider, or a person employed or associated with a Clearing Service Provider, to perform its functions;
  - (c) the adequacy of the systems and controls, the organisation and the internal control systems of a Clearing Service Provider;
  - (d) conduct of business issues, in particular issues with regard to efficiency, transparency and governance;
  - (e) strategies of the Clearing Service Provider;
  - (f) interoperability, if these arrangements are active with the Clearing Service Provider
  - (g) crisis management; and
  - (h) systemic risk issues, such as any anticipated wind-down of a significant part of a Clearing Service Provider's operations.
  - (i) regular data on the activity of the Clearing Service Provider, the scope and frequency to be agreed among participating authorities. To avoid unnecessary information flows, the exchange of information shall be kept proportionate, risk-focused and be relevant for the Authorities' responsibilities.

11. Without limiting the scope of clause 7 to 10, the Authorities will co-operate in the event of a potential or actual critical incident that affects or may affect a Clearing Service Provider's normal operation or any of its participants as regards their obligations in relation to the Clearing Service Provider. This co-operation entails:

- (a) informing the relevant Authorities if one Authority identifies a potential or actual critical incident that affects or may affect the Clearing Service Provider;
- (b) gathering information, including that for any relevant international authorities; and
- (c) co-ordinating contacts with the Clearing Service Provider and/or the participant(s) in question.

The Authorities will discuss crisis management at periodical meetings.

12. Authorities should provide advance notification, where practicable and otherwise as soon as possible thereafter, regarding pending material regulatory changes and adverse events with respect to the Clearing Service Provider that may significantly affect another Authority's regulatory, supervisory or oversight interests.

### **Meetings of Authorities**

13. Representatives of the UK Authorities and of one, two or all of the Authorities will meet periodically, as necessary and at least once a year, to discuss issues of common interest relating to the Supervision of Clearing Service Providers and to improve co-operation between the Authorities. These meetings may be held by telephone conference or face-to-face, as agreed between the Authorities. Without prejudice to any of the Authorities' domestic competences and responsibilities, the issues to be discussed at these meetings may include, but will not be limited to:

- (a) assessment of risks affecting a Clearing Service Provider's clearing services or systems that are subject to the Authorities' supervision;
- (b) material and substantive developments to a Clearing Service Provider's provision of clearing services;

- (c) compliance with EU and other international standards, in particular any regarding clearing services or systems, including the CPSS-IOSCO Principles for financial market infrastructure;
- (d) updates on new or amended laws and regulations and their application in regard to or their impact on a Clearing Service Provider and its participants;
- (e) improving co-operation between the Authorities, and where necessary co-ordination of action by the Authorities; and
- (f) the items covered by clause 10.

Representatives of a Clearing Service Provider may be invited for meetings between the Authorities.

#### **Additional arrangements**

14. Other practical arrangements regarding the modalities of co-operation between the Authorities may be agreed upon. These agreements may be added as appendices to this MoU.

#### **Treatment of requests**

15. The procedure for request for provision of information or other assistance is governed in Annex 2. If a request for information or assistance is made, the Requested Authority will use all reasonable efforts to provide the information or assistance to the Requesting Authority, subject always to its applicable laws, regulations and requirements and overall policy.
16. In any case where the request cannot be fulfilled in part or whole, the Requested Authority will consider whether there may be other information or assistance which can be given by it or any other authority in its jurisdiction.

#### **Permissible uses of requested information**

17. The Authorities shall use any information provided by the Requested Authority for the purposes of carrying out their functions relating to the Supervision of Clearing Service Providers.



## **Confidentiality**

18. Each Authority shall maintain the confidentiality of any non-public information it receives under this MoU according to the Authorities respective provisions of professional secrecy as they are applicable to them. The Authorities may disclose such information to other authorities in their respective country according to national rules, regulations and practices. Subject to this, the Authorities shall endeavour not to disclose such information, including by transmission to any other authorities, without the prior approval of the Authority that provided the information.
19. In the event of a legally enforceable demand to disclose any information received under this MoU, the Authority receiving the demand will endeavour to notify the Authority that provided the information of such a demand prior to complying with it. In addition, it will, if possible, assert all appropriate legal exemptions or privileges from disclosure with respect to that information as may be available.

## **Contact points**

20. A list of contact points to which information or requests for information and assistance under this MoU should be directed is set out in Appendix 1. Any Authority may amend its contact information set out in the list by contacting the UK Authority. The UK Authority will send the updated contact list to the other parties of this MoU in a timely manner.

## **Costs**

21. The Requested Authority may, as a condition of agreeing to give information or assistance under this MoU, request that the Requesting Authority make a contribution to costs if the cost of fulfilling a request if it is likely to be substantial.

## **Entry into effect and termination**

22. This MoU shall come into force on the date of the signature by the Authorities. To terminate the cooperation under the MoU an Authority has to give written notice to the other Authorities. The MoU will continue to be in force for the other Authorities. For the Authority that has given written notice of their intention to terminate co-operation under the MoU, the MoU will

continue to have effect until 60 days after the written notice. If any one of the Authorities gives such notice, co-operation will continue with respect to all requests for information or assistance that were made under the MoU before the effective date of notification until the Requesting Authority terminates the matter for which information or assistance was requested. In the event of the termination of this MoU, information obtained under it will continue to be treated in the manner prescribed under clauses 17, 18 and 19.

### **Review of MoU**

23. The Authorities will keep the operation of this MoU under review and will consult when necessary with a view to improving its operation and resolving any matters.

### **Amendment of MoU**

24. This MoU may be amended by the unanimous agreement of the Authorities.

### **Additional parties**

25. The Authorities may jointly agree that other authorities may become signatories of this MoU.

26. This MoU has been drawn up in seven identical copies, one for each of the Authorities.

### **Special Provision for the Danish Authorities**

27. The Danish Authorities will become parties to the MoU after the Finnish, Swedish and UK Authorities. Until such time as the Danish Authorities sign the MoU, references to "Authorities" will not include the Danish Authorities but the MoU will be effective between the Finnish, Swedish and UK Authorities.

Signed by the Authorities

Signed on 2<sup>nd</sup> July 2012

D. M. Lawton

For the FSA  
David Lawton, Director

Ulrik Nødgaard

Signed on \_\_\_\_\_

For Finanstilsynet  
Ulrik Nødgaard, Director General

Hugo Frey Jensen

Signed on 13/8 2012

For Danmarks Nationalbank  
Hugo Frey Jensen, Governor

Anneli Tuominen

For Finanssivalvonta  
Anneli Tuominen, Director General

Pentti Hakkarainen

For Suomen Pankki  
Pentti Hakkarainen, Deputy Governor

Anna Jegnell

For Finansinspektionen  
Anna Jegnell, Acting Director General

Mattias Persson

For Sveriges riksbank  
Mattias Persson, Head of Financial Stability Department

## Appendix 1: Contact Points

### For the FSA

Name: Priyanka Malhotra  
Telephone: +44 20 7066 3560  
Mobile: +44 782 798 1322  
Fax: +44 20 7066 3561  
Address: FSA, 25 The North Colonnade, Canary Wharf, London E14 5HS  
E-mail: [priyanka.malhotra@fsa.gov.uk](mailto:priyanka.malhotra@fsa.gov.uk)

### For Finansinspektionen

Name: Jan Sjödin, Jan Axelsson  
Telephone: +46 8 787 82 49, +46 8 787 82 07  
Fax: +46 8 24 13 35  
Address: Box 7821, 103 97 Stockholm, Sweden  
E-mail: [jan.sjodin@fi.se](mailto:jan.sjodin@fi.se), [jan.axelsson@fi.se](mailto:jan.axelsson@fi.se)

### For Sveriges riksbank

Name: Susanna Grufman, Johanna Stenkula von Rosen  
Telephone: +46 8 787 06 76, +46 8 787 05 77  
Fax: +46 8 21 05 31  
Address: Sveriges Riksbank, 103 37 Stockholm, Sweden  
E-mail: [Susanna.grufman@Riksbank.se](mailto:Susanna.grufman@Riksbank.se), [johanna.von.rosen@Riksbank.se](mailto:johanna.von.rosen@Riksbank.se)

### For Finanssivalvonta

Name: Jukka Laitinen, Arja Voipio  
Telephone: +358 10 831 5287, +358 10 831 5224  
Mobile: +358 50 38 55 180, +358 50 34 43 438  
Fax: +358 831 5328  
E-mail: [jukka.laitinen@finanssivalvonta.fi](mailto:jukka.laitinen@finanssivalvonta.fi), [arja.voipio@finanssivalvonta.fi](mailto:arja.voipio@finanssivalvonta.fi)

### For Suomen Pankki

Name: Marko Myller, Risto Koponen  
Telephone: +358 10 831 2324, +358 10 831 2047  
Fax: +358 10 831 2311  
E-mail: [marko.myller@bof.fi](mailto:marko.myller@bof.fi), [risto.koponen@bof.fi](mailto:risto.koponen@bof.fi)

### For Danmarks Nationalbank

Name: Peter Restelli-Nielsen, Kristian Kjeldsen  
Telephone: +45 33 63 61 55, +45 33 63 61 51

Fax: +45 33 63 71 29  
Address: Havnegade 5, DK-1093 Copenhagen K  
E-mail: pnr@nationalbanken.dk, kk@nationalbanken.dk

For Finanstilsynet

Name: Stig Nielsen, Pernille Linde Christiansen  
Telephone: +45 33 55 83 42, +45 33 55 84 65  
Fax: +45 33 55 82 00  
Address: Aarhusgade 110, 2100 Copenhagen  
E-Mail: sni@ftnet.dk, pch@ftnet.dk

## **Appendix 2: Requests for information and assistance**

Requests for the provision of information or other assistance will, wherever possible be made in writing, but in cases of urgency may be oral and confirmed in writing within 5 business days. To facilitate assistance, the Requesting Authority should specify in any written request:

- (a) the information or other assistance sought by the Requesting Authority;
- (b) a general description of the matter which is the subject of the request;
- (c) the purpose for which the information or other assistance is sought;
- (d) if information is provided by the Requesting Authority for confirmation or verification, the information and the kind of confirmation or verification sought;
- (e) where onward disclosure of information provided to the Requesting Authority is likely to be necessary, the identity of the person to whom disclosure may be made and the reasons for such disclosure;
- (f) the desired time period for a reply;
- (g) any other matters specified by the Requested Authority.

Side letter to accompany the Memorandum of Understanding (MoU) between the UK Financial Services Authority, Sweden's Finansinspektionen and Sveriges riksbank, Danmark's Finanstilsynet and Danmarks Nationalbank, and Finland's Finanssivalvonta and Suomen Pankki on..... collectively "the Authorities", regarding co-operation for the Supervision of Clearing Service Providers.

Pursuant to the MoU signed by the Authorities, it is agreed that European Central Counterparty Limited will be considered a Clearing Service Provider pursuant to paragraph 1 of the MoU.

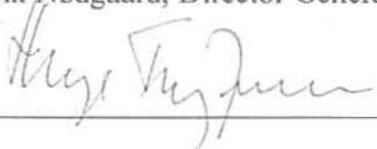
Signed by the Authorities:

Signed on 2<sup>nd</sup> July 2012

  
\_\_\_\_\_  
For the FSA  
David Lawton, Director

  
\_\_\_\_\_  
For Finanstilsynet  
Ulrik Nødgaard, Director General

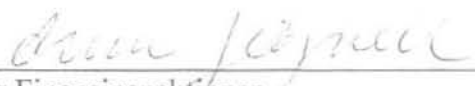
Signed on \_\_\_\_\_

  
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For Danmarks Nationalbank  
Hugo Frey Jensen, Governor

Signed on 13/8-2012

  
\_\_\_\_\_  
For Finanssivalvonta  
Anneli Tuominen, Director General

  
\_\_\_\_\_  
For Suomen Pankki  
Pentti Hakkarainen, Deputy Governor

  
\_\_\_\_\_  
For Finansinspektionen  
Anna Jegnell, Acting Director General

  
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For Sveriges riksbank  
Mattias Persson, Head of Financial Stability Department