

**16 December 2014**

**MEMORANDUM  
OF  
UNDERSTANDING**

**REPUBLIC OF KOREA**

**Bank of Korea**

**UNITED KINGDOM**

**Prudential Regulation  
Authority  
& Bank of England**

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# Memorandum of Understanding (“MoU”)

Between

**Bank of Korea  
 (“BoK”)**

**and**

**Prudential Regulation Authority  
 (“PRA”)**

## Recitals

- A. The Bank of Korea is vested with its authority by the Bank of Korea Act of the Republic of Korea. The Bank of Korea performs the typical functions of a central bank; issuing banknotes, and formulating and implementing monetary and credit policy. The Bank of Korea also undertakes operation and oversight of the payment and settlement systems, and conducts functions of supervision of financial institutions, as stipulated in the Bank of Korea Act. To achieve financial system stability, the Bank of Korea makes constant use of information from financial institutions, to monitor their business operations and financial conditions, and as necessary, conducts on-site examinations of them, jointly with the Financial Supervisory Service, to determine their soundness. The focus of these examinations is on the facilitation of macro-prudential policy, for example detecting and responding in advance to systemic risks that can threaten the financial system as a whole, as well as on monitoring the soundness of individual financial institutions.
- B. The PRA is a subsidiary of the Bank of England and, together with the Financial Conduct Authority (FCA), forms the United Kingdom’s “twin peaks” financial services regulatory structure. The Prudential Regulation Authority (PRA) is responsible for the prudential regulation and supervision of banks, building societies, credit unions, insurers and major investment firms. In total the PRA regulates around 1,700 financial firms. The PRA’s role is defined in terms of two statutory objectives: to promote the safety and soundness of these firms and, specifically for insurers, to contribute to the securing of an appropriate degree of protection for policyholders. The PRA has a secondary objective of facilitating competition.
- C. Banking and insurance are international industries. Many UK firms have operations overseas, and many firms domiciled overseas have subsidiaries or branches in the United Kingdom. Deposit-takers, investment and insurance firms are therefore supervised on a co-operative international basis, and the policy framework for this supervision is to a large extent agreed globally, including by the Basel Committee on Banking Supervision (BCBS), the International Association of Insurance Supervisors (IAIS) and the Financial Stability Board (FSB), to ensure that all jurisdictions uphold appropriate standards in their collective interest. The PRA, therefore, participates actively in global and European supervisory fora and bilaterally with third country partners, playing a full and active role with its counterparts in supervising cross-border firms, and seeking to be an influential and persuasive participant in international policy debates. This MoU with the Bank of Korea (BoK) therefore seeks to facilitate this participation and co-operation.
- D. The BoK and the PRA, together with the Bank of England, wish to enter into this MoU to provide a formal basis for co-operation, including for the exchange of

information and investigative assistance. The BoK, the PRA and the Bank believe such co-operation will enable them to perform their functions more effectively.

## Operative Part

### Interpretation

1. In this MoU, unless the context requires otherwise:

**“administering”** an applicable law, regulation or requirement includes enforcing the same;

**“applicable laws, regulations and requirements”** means any law, regulation or requirement applicable in the Republic of Korea and/or in the United Kingdom, and where the context permits includes:

- (a) relevant European legislation that has not yet been transposed into UK domestic law;
- (b) any law, regulation or requirement applicable in the Republic of Korea or the United Kingdom; and
- (c) any rule, direction, requirement, guidance or policy made or given by or to be taken into account by an Authority;

**“Authority”** means the Bank of Korea, or the PRA/Bank of England;

**“PRA”** means the Prudential Regulation Authority (or its successor(s));

**“Bank”** means the Bank of England;

**“BoK”** means the Bank of Korea;

**“receiving Authority”** means the Authority that makes a request pursuant to this MoU and has received the information from the “disclosing authority”;

**“requesting Authority”** means the Authority that makes a request pursuant to this MoU;

**“disclosing Authority”** means the Authority that receives a request pursuant to this MoU;

**“emergency/crisis situation”** means where an Authority (or the Authorities) is seeking urgently to manage a circumstance where a firm is or can reasonably be expected to be financially impaired, such that it will or is likely to affect adversely the operations of the firm resulting in damage to financial stability and the wider financial system;

**“onward receiving authority”** means:

- a. in respect of the United Kingdom authorities, the PRA, the Bank of England, HM Treasury, the Financial Reporting Council, and the Financial Conduct Authority.
- b. In respect of the Republic of Korea authorities, the Bank of Korea, the Ministry of Strategy and Finance, the Financial Services Commission the Financial Supervisory Service, and the Korea Deposit Insurance Corporation;

**“permitted onward recipient”** means an agency or authority responsible for prosecuting, regulating or enforcing applicable laws, regulations and requirements falling within the areas of responsibility of the Authorities;

**“person”** means a natural person, legal entity, partnership or unincorporated association;

**“resolution”** means action taken by an Authority to address an emergency/crisis situation, the impact of which, if left unattended, threatens financial stability and the financial system. Such actions might typically include (but are not necessarily limited to) facilitating the orderly failure of a firm; legal and judicial action; administration, receivership, liquidation or the facilitation of the sale or merger of a troubled firm/financial institution.

2. Apart from where the context requires otherwise, both the PRA and Bank of England are, for the purposes of this MoU, treated as one Authority.

#### **Purpose and effect of this MoU**

3. The purpose of this MoU is to establish a formal basis for co-operation, including the exchange of confidential information and investigative assistance, to facilitate timely and effective supervision, to identify risks to the financial system and, where necessary, to address emergency/crisis situations, especially in instances where emergency/crisis situations involve firms with cross-border operations in the Republic of Korea or the United Kingdom.
4. This MoU does not modify or supersede any laws or regulatory requirements in force in, or applying to, Republic of Korea or the United Kingdom. This MoU sets forth a statement of intent and accordingly does not create for either Authority any legally enforceable rights or obligations. This MoU does not affect any arrangements under other MoUs.
5. The Authorities acknowledge that they may provide confidential information under this MoU only to the extent that they are not prevented from doing so under applicable laws, regulations and requirements.

#### **Treatment of confidential information received**

6. The receiving Authority may use confidential information provided under this MoU only within its respective organisation and only in connection with its public functions with regard to supervision of financial institutions' activities.
7. The PRA and the Bank may, recognising their shared supervisory objectives, exchange confidential information provided under this MoU, without the need to notify or consult the BoK.

#### **Onward sharing of confidential information**

8. Where necessary in the furtherance of an Authority's regulatory functions and supervisory objectives (including in emergency/crisis situations) and where the

applicable law allows, an Authority may pass confidential information provided under this MoU to another organisation that carries out similar regulatory and/or supervisory functions, applying the approach set out in this section.

9. The receiving Authority will wherever possible consult with the disclosing Authority in advance if it proposes to pass on such confidential information to another person. In an emergency/crisis situation the receiving Authority may notify (rather than to consult) the disclosing Authority in advance that such confidential information is to be passed to another national regulatory body.
10. The receiving Authority will comply with any reasonable restrictions on the use of confidential information provided under this MoU that are set by the disclosing Authority as part of the basis on which the information is provided.
11. If the receiving Authority is required by law to disclose to a third party confidential information provided under this MoU, it will notify the disclosing Authority of the situation in advance of disclosure, unless this is not practicable for reasons of urgency, in which case it will notify as soon as reasonably practicable afterwards. The receiving Authority will use all reasonable legal means to resist any requirement to disclose confidential information provided under this MoU.
12. Notwithstanding paragraphs 8 to 11 of this MoU, an Authority may disclose information it receives under this MoU to an onward receiving authority, without consulting or notifying (in advance or afterwards) the Authority that supplied the information, provided that:
  - (a) Such disclosure is made in accordance with the laws, regulations, and requirements; and
  - (b) Such disclosure is for the purposes of the lawful functions of the Authority making the disclosure and/or the onward receiving authority.

### **Rights of persons preserved**

13. Any person providing testimony, information or documents as a result of a request made under this MoU will be entitled to all the rights and protections of the laws of the jurisdiction of the disclosing Authority. Where assertions are made regarding other rights and privileges arising exclusively pursuant to the laws of the jurisdiction of the requesting Authority, the Authorities will consult to determine the most appropriate way to proceed.

### **Notification practice and procedure**

14. Each Authority will notify the other of any material changes in their respective professional secrecy legislation. The Authorities will use their best endeavours to notify the other of serious financial and operational difficulties experienced by firms active in their respective jurisdictions.
15. To the extent permitted by applicable laws, regulations and requirements, each Authority will use reasonable efforts as far as practicable to provide the other

Authority on a timely basis with any information that is in its possession or discovered which:

- (a) gives rise to a suspicion of a breach of the applicable laws, regulations or requirements of the other Authority; or
  - (b) will be likely to assist in administering laws, regulations or requirements of the other Authority, if provided to the Authority.
16. Where the specific conduct set out in a request for assistance may constitute a breach of a law, regulation or requirement in both the territory of the requesting and the disclosing Authorities, the relevant Authorities will consult to determine the most appropriate means for each Authority to provide assistance.
17. The PRA will notify the BoK of plans to examine or inspect any branch or subsidiary of a Korean banking organisation located in the United Kingdom and the BoK will notify the PRA of plans to examine or inspect any branch or subsidiary of a UK banking organisation located in the Republic of Korea. The host Authority may inform the home Authority of any subject matter in which it has a particular concern or interest.
18. The PRA (as the home authority) will notify the BoK (host) of plans to examine or inspect any branch or subsidiary of a UK banking organisation located in the Republic of Korea, and the BoK (as the home authority) will notify the PRA (host) of plans to examine or inspect any branch or subsidiary of a Korean banking organisation located in the United Kingdom.

### **Recovery & Resolution planning**

19. This MoU seeks to facilitate rapid information exchange and co-operation & liaison, to address information sharing, especially in crisis / emergency situations between supervisory authorities for recovery and resolution planning purposes (both bilaterally and through any CMG to which both Authorities are members and at least one Authority is the home Authority). It aims also to offer mutual support in the supervision of branches; in particular, in relation to home state supervision of recovery and resolution plans in respect of the activities of specific firms.
20. To the extent that any 'Co-operation Agreement' (COAG) is established between the Authorities<sup>1</sup> at a future date, this will aim, subject to the agreement of the Authorities, to set out how to bring about contingency planning and, as necessary, an orderly resolution of a crisis involving a specific institution, minimising the impact of any failure. Where appropriate, the detailed 'Co-operation Agreement' will take account of EU regulatory bodies and their interactions with the PRA on recovery & resolution - and globally, through the approach that has been developed by the FSB ("Information sharing for Resolution Purposes").

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<sup>1</sup> For the PRA, any 'Co-operation Agreement' will be developed with the Resolution Directorate of the Bank of England, in consultation with the resolution authority of the counter-party to this Memorandum of Understanding.

21. To the extent practicable and as appropriate in the particular circumstances, each Authority will endeavour to inform the other Authority in advance of regulatory changes relating to resolution measures, especially any which will or may have a significant, material impact on the operations or activities of a firm in the other jurisdiction. This will, however, be without prejudice to any arrangements relating to specific prudential issues.

### **Enforcement**

22. The PRA will consider taking enforcement action against firms and/or individuals as it considers appropriate to support the exercise of its supervisory judgement. The intention in deploying enforcement powers may include: reinforcing the PRA's objectives and priorities; changing, and promoting high standards of, regulatory behaviour; the need to send a clear signal to a firm and to the regulated community more widely, about the circumstances in which the PRA considers a firm's behaviour to be unacceptable; and deterring future misconduct.
23. The Authorities recognise that there may be circumstances in which one or the other of them wishes to take enforcement action in situation where the other Authority has a regulatory interest. Appendix 1 sets out what the Authorities have agreed with respect to such cases, and in relation to requests for assistance in enforcement matters.

### **Requests for Assistance**

24. If a request for assistance is made, each Authority will use reasonable efforts to provide assistance to the other, subject to its laws and overall policy. Assistance may include for example:
  - (a) providing relevant confidential information in the possession of the disclosing Authority;
  - (b) confirming or verifying confidential information provided to it for that purpose by the requesting Authority;
  - (c) exchanging information on or discussing issues of mutual interest;
  - (d) obtaining specified confidential information and documents from persons;
  - (e) questioning or taking testimony of persons designated by the requesting Authority;
  - (f) conducting inspections or examinations of financial services providers or arranging for the same; and
  - (g) permitting the representatives of the requesting Authority to participate in the conduct of enquiries made by or on behalf of the disclosing Authority pursuant to paragraphs (e) - (f) above.

## Procedure for Requests

25. Requests for the provision of information or other assistance, including in an emergency or crisis situation will be made in writing (including by email), or made orally and, unless otherwise agreed, confirmed in writing within ten business days. To facilitate assistance, the requesting Authority should specify in any written request:
- (a) the information or other assistance requested (identity of persons, specific questions to be asked etc.);
  - (b) if information is provided by the requesting Authority for confirmation or verification, the information and the kind of confirmation or verification sought;
  - (c) the purpose for which the information or other assistance is sought;
  - (d) the desired time within which the information sought should be provided;
  - (e) to whom, if anyone, onward disclosure of information provided to the requesting Authority is likely to be necessary and, in relation to onward disclosure to a person who is not a permitted onward recipient, the purpose such disclosure would serve;
  - (f) if the request for assistance is for the purpose of actual or possible enforcement action, the matters set out in clause 1 of Appendix 1; and
  - (g) any other matters specified by the disclosing Authority and by the applicable laws, regulations and requirements in relation to the disclosing Authority.

## Assessing Requests

26. Each request for assistance will be assessed on a case-by-case basis by the disclosing Authority, to determine whether assistance can be provided (either in part or in whole) under the terms of this MoU. In any case where the request cannot be fulfilled in part or whole, the disclosing Authority will consider whether there may be other assistance that can be given by itself or by any other Authority in its jurisdiction and, wherever possible, will endeavour to provide this.
27. In an emergency/crisis situation, the Authorities will each endeavour to notify the other of its nature and communicate information to the other as would be appropriate pertaining to the particular circumstances, taking into account all relevant factors, including the status of efforts to address the emergency/crisis situation in question. Wherever and to the extent possible, the Authorities will co-operate in seeking potential solutions, especially in instances where cross-border entities (that have their head offices located in either Authorities' jurisdictions) are adversely affected by the situation.
28. In deciding whether and to what extent to fulfil a request, the disclosing Authority may take into account:
- (a) whether the request conforms with this MoU;

- (b) whether the request involves the administration of a law, regulation or requirement which has no close parallel in the jurisdiction of the disclosing Authority;
  - (c) whether the provision of assistance would be so burdensome as to disrupt the proper performance of the disclosing Authority's functions;
  - (d) whether it would be otherwise contrary to the public interest or the essential national interest of the disclosing Authority's jurisdiction to give the assistance sought;
  - (e) if the request for assistance is for the purpose of actual or possible enforcement action, the further matter set out in clause 2 of Appendix 1;
  - (f) any other matters specified by the laws, regulations and requirements of the disclosing Authority's jurisdiction (in particular those relating to confidentiality and professional secrecy, data protection and privacy, and procedural fairness);
  - (g) the reason for the request; and
  - (h) whether complying with the request may otherwise be prejudicial to the performance by the disclosing Authority of its functions.
29. The Authorities recognise that assistance may be denied in whole or in part for any of the reasons mentioned in paragraph 28 in the discretion of the disclosing Authority.

### **Provision of Unsolicited Information**

30. The Authorities may, to the extent permitted by law, provide confidential information, or arrange for confidential information to be provided, on a voluntary basis, even though no request has been made.

### **Contact Points**

31. The Authorities will provide a list of contact points to which information or requests for information or assistance under this MoU should be directed.

### **Further Provisions**

32. The further provisions set out in:
- (a) Appendix 1 will apply in relation to actual or possible enforcement matters;
  - (b) any other Appendices covering specific areas of financial services or specific issues, as agreed in writing by the Authorities, will apply.

### **Commencement**

33. This MoU will take effect when both Authorities have signed this document. It may be amended by agreement in writing.

**Publication of this MoU**

34. The parties agree to this MoU being made publicly available.

**Review of this MoU and of supervisory developments**

35. 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, where they arise, that hinder its operation. The parties will endeavour to meet at least annually to discuss general supervisory developments.

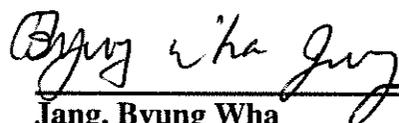
**Termination of MoU**

36. This MoU will continue to have effect until terminated by either Authority giving 30 days' advance written notice to the other Authority.

37. The BoK and the PRA will consult, to determine any other matters not specified in this MoU, so as to be consistent with applicable laws, regulations and requirements.

**Executed by the Parties:**

**For the Bank of Korea**



Jang, Byung Wha  
Senior Deputy Governor,  
Bank of Korea

Date:

**For the PRA**



Andrew Bailey, Chief Executive Officer of  
the Prudential Regulation Authority and  
Deputy Governor, Prudential Regulation,  
Bank of England

Date:

**For the Bank of England**



Andrew Bailey, Chief Executive Officer of the  
Prudential Regulation Authority and Deputy  
Governor, Prudential Regulation, Bank of  
England

Date:

## **Appendix 1: Further Procedures for Enforcement Matters**

### **Further details to be contained in requests for assistance**

1. 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 rule or law and the regulatory functions of the requesting Authority;
  - (d) the relevance of the requested assistance to the specified rule or law; and
  - (e) whether it is desired that, to the extent permitted by the laws applying to the disclosing 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 clause 3 below).

### **Further ground for denial of request**

2. 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 disclosing Authority in determining whether to fulfil the request in whole or in part:
  - whether the request would lead to the prosecution of, or the taking of disciplinary or other enforcement action against, a person who in the opinion of the disclosing Authority has already been appropriately dealt with in relation to the alleged breach, in respect of the subject matter of the request.

### **Requests to Sit in**

3. If, following a request from the requesting Authority, the requested Authority conducts an interview of any person, the disclosing 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 disclosing Authority. Requests for such assistance should conform to any published guidance for the making of such requests issued by the disclosing Authority.

### **Joint Investigations**

4. 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.

5. The Authority suggesting the joint investigation will advise the other Authority of the background to the request for a joint investigation, and will 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 an investigation.
6. If the Authorities agree to take part in a joint investigation, an agreed initial action plan will be prepared setting out, among other things, the objectives, expected duration, funding, publicity and accountability arrangements, management of the joint investigation, and allocation of responsibilities.
7. Suggestions to the BoK for a joint investigation should be made, through the Director General of the Office of Bank Examination and Analysis in the BoK . Suggestions to the PRA should be made to the Head of the PRA Legal Intervention Department within the Prudential Legal Function in the PRA.