

17 July 2012

**MEMORANDUM
OF
UNDERSTANDING**

INDIA

Reserve Bank of India

UNITED KINGDOM

**Financial Services
Authority**

Memorandum of Understanding (“MOU”)

Between

The Reserve Bank of India (“RBI”) and the Financial Services Authority (“FSA”)

Recitals

- A. The RBI is responsible for the regulation and supervision of Banking organisations taking public deposits, issuing loans, arranging settlement of accounts and engaging in other business in India and in accordance with India legislation. The RBI is committed to the principles of effective consolidated supervision and cooperation between banking supervisors and its responsibilities as set out in the Basel Committee on Banking Supervision’s Core Principles for Effective Banking Supervision.
- B. The FSA is the United Kingdom’s principal national financial services and markets regulator. As such it administers the Financial Services and Markets Act 2000 (“FSMA”) which provides among other things for the supervision of firms, financial services, financial products and financial markets. Also, in its capacity as the competent authority (i.e. the UK Listing Authority) under Part VI of FSMA, the FSA is responsible for regulating listed issuers and their corporate advisers. The FSA is committed to the principles of effective consolidated supervision and cooperation between banking supervisors and its responsibilities as set out in the Basel Committee on Banking Supervision’s Core Principles for Effective Banking Supervision.
- C. The RBI and the FSA wish to enter into this MOU to provide a formal basis for co-operation in the area of banking supervision, including for the exchange of supervisory information. The RBI and the FSA believe such co-operation will enable them to more effectively perform their functions.
- D. As part of this cooperation, the RBI and the FSA intend to work towards the following outcomes:
 - (a) the operations of the Cross-border establishments under their respective Jurisdictions are prudently conducted;
 - (b) the head offices and parent banking organisations of the Cross-border establishments exercise adequate and effective control over the operations of their cross-border branches and subsidiaries; and
 - (c) their respective ongoing supervision of Banking organisations effectively covers cross-border establishments on a consolidated basis and assists each other in performing such function.

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 India and/or in the United Kingdom, as the case may be, 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 a India 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;
- (d) “Authority” means the RBI or the FSA;
- (e) “Banking organisation” means (i) in India, an institution authorised to carry on banking business under Section 22 of the Banking Regulation Act,1949 or permitted under any other enactment or statutory instrument and for the supervision of which the RBI is responsible; and (ii) in the UK, a person authorised by the FSA under Part IV of the Financial Services and Markets Act 2000 with permission from the FSA to accept deposits;
- (f) “Cross-border establishment” means a branch, representative office or subsidiary of a Banking organisation in each case which is established in the Jurisdiction other than that of its head office or parent banking organisation, which is supervised by the relevant Authority in that Jurisdiction, and which gives rise to the need for consolidated supervision;
- (g) “Jurisdiction” means the country, state or other territory, as the case may be, in which the RBI or the FSA has legal authority, power and/or Jurisdiction by law;
- (h) “Home Authority” means the Authority of the Jurisdiction where the head office or parent banking organisation of a Cross-border establishment is established;
- (i) “Host Authority” means the Authority of the Jurisdiction where the Cross-border establishment is established;
- (j) “Material supervisory concern” means a concern held by an Authority relating to: (i) whether the operations of a Banking organisation are conducted in a safe and sound manner and substantially in conformity with applicable prudential standards; (ii) whether there has been evidence of a material violation of applicable laws, regulations and requirements; or (iii) events or potential events that would have a material adverse effect on the financial stability of Banking organisations in the Jurisdiction of the other Authority. A Material supervisory concern as described herein would include concerns relating to Cross-border establishments.
- (k) “Requested Authority” means the Authority to whom a request is made pursuant to this MOU;
- (l) “Requesting Authority” means the Authority that makes a request pursuant to this MOU;
- (m) “FSA” means the Financial Services Authority (or its successor(s));
- (n) “RBI” means the Reserve Bank of India;

- (o) “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; and
- (p) “person” means a natural person, legal entity, partnership or unincorporated association.

Purpose and Principles

2. The purpose of this MOU is to establish a formal basis for co-operation in the area of banking supervision, including the exchange of supervisory information.
3. This MOU does not modify or supersede any applicable laws, regulations and requirements in force, or applying to, India or the United Kingdom. This MOU sets forth a statement of intent and accordingly does not, and is not intended to create any legally enforceable rights or legally binding obligations on either Authority. This MOU does not affect any arrangements under other MOUs.
4. The Authorities recognise the importance and desirability of mutual assistance and exchange of information. Information should be shared to the extent reasonable and subject to any relevant applicable laws, regulations and requirements, including those restricting disclosure. The Authorities acknowledge that they may only provide information under this MOU if permitted or not prevented under applicable laws, regulations and requirements. Nothing in this MOU shall require or deemed to require either of the Authorities to provide information or assistance, the disclosure or provision of which is or may be restricted or prohibited by applicable laws, regulations and requirements or to act in any manner which amounts to or may amount to violation of the provisions of applicable laws, regulations and requirements.
5. Information-sharing includes contact during the authorisation and licensing process, during supervision of on-going activities and handling of problem situations.
6. In connection with the authorisation process for a Cross-border establishment, and subject to applicable laws, regulations and requirements:
 - (a) the Host Authority will endeavour to notify the Home Authority of applications for approval to establish a Cross-border establishment;
 - (b) upon request, the Home Authority will endeavour to inform the Host Authority whether the applicant Banking organisation 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 -upon request- endeavour to assist the Host Authority by verifying or supplementing any information submitted by the applicant Banking organisation;
 - (c) upon request, the Home Authority will endeavour to inform the Host Authority about the nature of its regulatory system and the extent to which it will conduct consolidated or group-wide supervision of the applicant Banking organisation. Similarly, the Host Authority will, upon request, endeavour to 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 Banking organisation; and
 - (d) upon request the Home and Host Authorities will endeavour to share information on the fitness and propriety of prospective managers of a Cross-border establishment.
7. In connection with the ongoing supervision of Cross-border establishments, and subject to applicable laws, regulations and requirements, each Authority upon request from the other will endeavour to:
 - (a) provide relevant information to their counterpart regarding material developments or Material 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 actions taken, against a Cross-border establishment; and
 - (d) facilitate the transmission of any other relevant information that might assist with the supervisory process.
8. Where remedial action is called for to address a Material supervisory concern, each Authority will endeavour to notify the other Authority prior to it taking the appropriate action or, as circumstances dictate, as soon thereafter as practicable, to the extent possible and appropriate and subject to applicable laws, regulations and requirements.
9. In the case of an India or UK banking organization facing serious financial difficulties that could have a material adverse impact on the operations of such Banking organisation in the respective host Jurisdiction, the Authorities recognise that close liaison between them would be mutually advantageous. In the course of co-operating on the basis of the above provisions, the Authorities will endeavour to communicate such information as would be appropriate in the particular circumstances, taking into account all relevant factors, including the status of efforts by the Home Authority to resolve the bank's difficulties and restore confidence in the bank.
10. The Authorities shall co-operate and, subject to applicable laws, regulations and requirements, will endeavour to share relevant information in the process of decision-making with regard to granting permission (consent) to acquiring shares (stakes) by person or institutions registered in one Jurisdiction of a Banking organisation registered in the other Jurisdiction. The term "acquisition" shall mean the acquisition of a participatory interest in the capital of a Banking organization registered within India or the UK in the amount that requires, under national legislation, preliminary permission (consent) from the appropriate authority.

Requests for Assistance

11. If a request for assistance is made, each Authority will use reasonable efforts to provide assistance to the other, subject to its applicable laws regulations and requirements and overall policy. Assistance may include for example:
- (a) providing information in the possession of the Requested Authority;
 - (b) confirming or verifying information provided to it for that purpose by the Requesting Authority;
 - (c) exchanging information on or discussing issues of mutual interest; and
 - (d) on an exceptional basis, conducting inspections or examinations of cross border establishments or arranging for the same.

Procedure for Requests

12. Requests for the provision of information or other assistance will be made in writing in English, or made orally and, unless otherwise agreed, confirmed subsequently in writing. The Authority receiving such requests will endeavor to provide the information as quickly as possible. 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) 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; and
- (e) any other matters specified by the Requested Authority and by the applicable laws, regulations and requirements in relation to the Requested Authority.

Assessing Requests

13. Each request for assistance will be assessed on a case-by-case basis by the Requested Authority to determine whether assistance can be provided under the terms of this MOU. In any case where the request cannot be fulfilled in part or whole, the Requested Authority will consider whether there may be other assistance which can be given by itself or by any other Authority in its Jurisdiction.
14. In deciding whether and to what extent to fulfil a request for information or assistance, the Requested Authority may take into account any relevant factors, including:
 - (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 Requested Authority;
 - (c) whether the provision of assistance would be so burdensome as to disrupt the proper performance of the Requested Authority's functions;
 - (d) whether it would be otherwise contrary to the public interest or the essential national interest of the Requested Authority's Jurisdiction to give the assistance sought;
 - (e) any other matters specified by the applicable laws, regulations and requirements of the Requested Authority's Jurisdiction (in particular those relating to confidentiality and professional secrecy, data protection and privacy, and procedural fairness);
 - (f) whether complying with the request may otherwise be prejudicial to the performance by the Requested Authority of its functions;
 - (g) whether acceding to the request or providing assistance in relation thereto would require or deem to require the Authority to provide information or assistance the disclosure or provision of which is or may be restricted by applicable laws, regulations and requirements, or to act in any manner which amounts or may amount to violation of applicable laws, regulations and requirements in the Jurisdiction of the requested Authority or any agreement entered into before the date of this MOU;
 - (h) whether compliance with the request would interfere with an investigation in circumstances where the prejudice to the investigation is likely to outweigh the adverse effects of refusing the request;
 - (i) grounds of public interest or national security; and
 - (j) any other legitimate ground, which in the opinion of the Authority concerned is likely to have an adverse impact on the effective discharge of its functions.
15. The authorities recognise that assistance or information may be denied in whole or in part for any of the reasons mentioned in paragraph 14 in the discretion of the Requested Authority, who shall not be required to give reasons for such denial.

Periodic Meetings

16. Representatives of the RBI and the FSA will endeavour to meet in case of necessity to discuss general supervisory developments as well as issues concerning the Banking organisations they supervise which maintain operations both in India and the United Kingdom.

17. Representatives of the RBI and the FSA will endeavour to participate in the meetings of Colleges of Supervisors and other cooperation arrangements concerning groups supervised on a consolidated basis either by the RBI or by the FSA and with operations in both in India and the United Kingdom.

On-site Examinations

18. The RBI will notify the FSA of plans to inspect any Cross-border establishment of an Indian Banking organisation that is established in the United Kingdom and the FSA will notify the RBI of plans to inspect any Cross-border establishment of a UK Banking organisation that is established in India. The Host Authority may assist in such examinations and inform the Home Authority of any subject matter in which it has a particular concern or interest.
19. The Home Authority may request on an exceptional basis the Host Authority to conduct an on-site examination of Cross-border establishments in the host Jurisdiction. The Authorities will endeavour to establish the basis and terms upon which on-site examination of Cross-border establishments in the host Jurisdiction are to be conducted.
20. In addition to the procedures outlined in chapter 'Purpose and Principles', upon written request signed by an authorised official of the Requesting Authority, the Requested Authority may, to the extent reasonable and permitted by applicable laws, regulations and requirements, provide the Requesting Authority with information drawn from regulatory reports of examinations or inspections concerning the Cross-border establishment that is obtained as part of the supervisory process.
21. As may be mutually agreed between the Authorities, examinations may be carried out by the Home Authority alone, or accompanied by the Host Authority. Following the examination, the Authorities will endeavour to exchange their views on the examination.
22. The Host Authority intend to communicate the findings of any on-site examination of Cross-border establishments in the host Jurisdiction to the Home Authority, to the extent reasonable and permitted by applicable laws, regulations and requirements.

Contact Points

23. The Authorities will provide a list (Annex A) of contact points to which information or requests for information or assistance under this MOU should be directed. The list shall be updated as necessary.
24. If the cost of fulfilling a request is likely to be substantial, the Requested Authority may, as a condition of agreeing to give assistance under this MOU, require the Requesting Authority to make a contribution to costs.

Crisis management

25. In connection with cross-border cooperation on crisis management:
 - (a) for a Cross-border establishment and its head office or parent banking organisation affected by crisis, the Home and Host Authorities will endeavour to consider together possible issues and barriers that may arise in cross-border cooperation, and seek potential solutions such as (i) the Home Authority may hold special meetings with any / all relevant authorities concerning a specific Cross-border establishment and its head office or parent banking organisation; (ii) the Host Authority may propose to hold special meetings with any / all relevant authorities concerning a specific Cross-border establishment and its head office or parent banking organisation;
 - (b) the Home and Host Authorities will endeavour to inform their counterparts on request, on a

timely basis, to the extent permissible and appropriate, of the arrangements for crisis management developed for a specific Cross-border establishment and its head office or parent banking organisation;

The Authorities will endeavour to share on request and to the extent permitted by applicable laws, regulations, requirements and the exercise of their supervisory functions, information drawn from :

- assessments on systemic impact, liquidity, solvency and contingency funding plans of a specific Cross-border establishment and its head office or parent banking organisation;
 - other contingency arrangements; and
 - contingency liquidation arrangements developed by a Cross-border establishment in the event of bankruptcy
- (c) the Authorities will endeavour to provide their counterparts on request, on a timely basis, with information pertaining to deposits protection arrangements for a specific Cross-border establishment under their respective Jurisdictions;
- (d) to assist the Host Authority responsible for a specific Cross-border establishment, the Home Authority, on request and where necessary, will -to the extent it is found feasible- endeavour to require the head office of the branch / the parent banking organisation to provide, on a timely basis, its initiatives and solutions for liquidity assistance to as well as other supporting measures for the entity; and
- (e) where permitted by applicable laws, regulations and requirements and confidentiality arrangements, the Home and Host Authorities will endeavour to provide their counterparts with the aforesaid information within a reasonable time period.

Confidentiality

26. Any confidential information shared pursuant to this MOU shall be used only for lawful supervisory purposes.
27. An Authority that receives non-public information under this MOU will only disclose that information in accordance with disclosure permitted under its applicable laws, regulations and requirements. To the extent permitted by applicable laws, regulations and requirements, the Authorities shall hold confidential all information received from each other pursuant to this MOU and will not otherwise disclose or act on such information without first obtaining the prior written consent of the other Authority, other than as envisaged under this MOU, in accordance with such conditions (if any) attached by the providing Authority or as necessary to carry out its lawful supervisory responsibilities.
28. If there is a legally enforceable demand for information supplied under this MOU, the Authority receiving the demand will promptly notify the Authority that supplied the information of the demand, unless this is not practicable for reasons of urgency. The Authority receiving the demand will use all reasonable legal means to resist such a demand, including asserting such appropriate legal exemptions or privileges with respect to that information as may be available.
29. With regard to non-legally enforceable requests from third parties for confidential information provided pursuant to this MOU, the Authority receiving such requests will, as soon as feasible, prior to releasing such information, notify the providing Authority and solicit the providing Authority's views as to the propriety of releasing such information to the third party, and will cooperate in seeking to preserve the confidentiality of such information.
30. The sharing of confidential information pursuant to this MOU shall not constitute a waiver of any legally recognizable privilege as to any person other than the parties to this MOU.

31. The RBI and FSA, in providing confidential written materials pursuant to this MOU, should mark the first page of the materials provided with a legend reading substantially as follows (but failure to do so shall not affect the confidentiality of such written materials):

“CONFIDENTIAL - PROVIDED PURSUANT TO RBI / FSA MEMORANDUM OF UNDERSTANDING”.

32. The authorities understand that all personnel likely to use the information shared within the framework of the present MOU remain subject to the professional secrecy rules provided by the Indian legislation for the RBI employees and UK legislation for FSA employees.

Consultation

33. 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. Any revision or amendment of this MOU shall only become valid after such revision or amendment was accepted in writing by both Authorities. Any difference derived from the interpretation or application of the provisions of this MOU of Understanding shall be solved by the Authorities in common agreement.
34. Where the specific conduct set out in the request for assistance may constitute a breach of a law, regulation or requirement in both the territory of the requesting and the requested Authorities, the relevant Authorities will consult to determine the most appropriate means for each Authority to provide assistance.

Commencement and termination

35. This MOU will take effect when both Authorities have signed and it may be amended by agreement in writing.
36. This MOU will continue to have effect with the successor entities of the FSA or the RBI and until terminated by either Authority giving 30 days advance written notice to the other Authority, provided, however, that the provisions set forth under the headings “Confidentiality” and “General Provisions” are to continue with respect to any information provided or actions taken under this MOU prior to its termination.

General Provisions

37. By signing or acting under this MOU, neither Authority waives any immunity from suit or privilege to which it may be entitled nor submits to the Jurisdiction of any court that would not have been a court of competent Jurisdiction if this MOU had not been executed.
38. No provision of this MOU is intended to give rise to the right of any person, entity or governmental authority, directly or indirectly, to obtain any information or to challenge the execution of a request for information under this MOU.
39. Two copies of this MOU are prepared in the English language.

Executed by the Parties:

For the RBI



P Vijaya Bhaskar - Executive Director

Date: 17 July 2012

For the FSA



Andrew Bailey – Director of UK Banks and Building Societies

Date: 17 July 2012

Annex A

DESIGNATED CONTACT OFFICERS

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