

1 April 2014

**MEMORANDUM
OF
UNDERSTANDING**

Republic of Korea

**Financial Services
Commission**

**Financial Supervisory
Service**

UNITED KINGDOM

**Prudential Regulation
Authority**

Bank of England

Contents

RECITALS	2
OPERATIVE PART	4
Interpretation	4
Purpose and Principles	5
Confidentiality and treatment of information received	5
Onward information sharing	5
Rights of persons preserved	5
General Notification Procedure	6
Recovery & Resolution planning	7
Enforcement	7
Requests for Assistance	7
Procedure for Requests	8
Assessing Requests	8
Provision of Unsolicited Information	9
Contact Points	10
Further Provisions	10
Commencement	10
Publication of this MoU	10
Termination of MoU	10
APPENDIX 1: Further Procedures for Enforcement Matters	12
Further details to be contained in requests for assistance	12
Requests to Sit in	12
Joint Investigations	12

Memorandum of Understanding (“MoU”)

Between

**Financial Services Commission
 (“FSC”)**

and

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

**Financial Supervisory Service
 (“FSS”)**

**Bank of England
 (“BoE”)**

Recitals

- A. The FSC is vested by the Act on the Establishment of Financial Services Commission, etc. of the Republic of Korea. The FSC has broad statutory mandate to carry out four key functions: financial policy formulation, financial institution and market oversight, anti-money laundering, and supervision and instruction of the FSS. The FSC thus has the statutory authority to draft and amend financial laws and regulations and issue regulatory licenses to financial institutions. In addition, the FSC oversees cross-border matters such as supervising foreign exchange transactions conducted by financial institutions to ensure their financial soundness. In respect of anti-money laundering, Korea Financial Intelligence Unit (KoFIU), which was also integrated into the FSC as part of the reorganization, leads the government's anti-money laundering and counter-terrorism financing efforts.
- B. The responsibilities of the FSS include the supervision and examination of all financial institutions in the Republic of Korea. As an implementation body of the FSC by the relevant laws, the FSS may accordingly participate in the implementation of this Memorandum.
- C. 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.
- D. 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 therefore seeks to facilitate this participation and co-operation.

- E. The FSC and the FSS 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 FSC and the PRA 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 FSC and/or FSS or the PRA and/or Bank of England;
 - “**PRA**” means the Prudential Regulation Authority (or its successor(s));
 - “**FSC**” means the Financial Services Commission;
 - “**FSS**” means the Financial Supervisory Service;
 - “**receiving authority**” means the Authority that makes a request pursuant to this MoU and has received the information from the “requested authority”;
 - “**requesting Authority**” means the Authority that makes a request pursuant to this MoU;
 - “**requested 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 any of the United Kingdom Authorities, the PRA, the Bank of England, Financial Reporting Council and/or the Financial Conduct Authority; or
 - (b) in respect of any of the Republic of Korea Authorities, the FSC, the FSS and/or the Securities and Futures Commission;
 - “**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; and
 - “**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.

Purpose and Principles

2. The purpose of this MoU is to establish a formal basis for co-operation, including the exchange of information and investigative assistance, to facilitate timely and effective (and in the case of the PRA and the Bank of England ("the Bank"), judgement-based) supervision, 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 Republic of Korea or the United Kingdom.
3. 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.
4. The Authorities acknowledge that they may provide information under this MoU only if permitted or not prevented under applicable laws, regulations and requirements.

Confidentiality and treatment of information received

5. An Authority that receives non-public information under this MoU will only disclose that information in accordance with disclosure permitted under its applicable professional secrecy laws, regulations and requirements. The receiving Authority will endeavour to consult with the other Authority if it proposes to pass on information to another person; however, in an emergency/crisis situation the Authority may be able only to notify (rather than to consult) that such information has been passed to another, national regulatory body. The receiving Authority will endeavour to comply with any restrictions on the use of information that are agreed when the information is provided.
6. If there is a legally enforceable demand for information supplied under this MoU, the Authority receiving the demand will 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.

Onward information sharing

7. Notwithstanding Paragraphs 5 and 6 of this MoU, an Authority may disclose any non-public information it receives under this MoU to an Onward Receiving Authority without first consulting or notifying the Authority that supplied the information, and without needing to resist a request from the Onward Receiving Authority for disclosure, provided that:
 - (a) such disclosure is made in accordance with applicable 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.

8. The Onward Receiving Authority is required to maintain a level of confidentiality in respect of the non-public information that is at least equivalent to that which the Authority making the disclosure is subject to (including, where relevant, restrictions or conditions imposed on it by the Authority that supplied the information).

Rights of persons preserved

9. 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 requested 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.

General Notification Procedure

10. Each party will notify the other of any material changes in their respective professional secrecy legislation. The parties will use their best endeavours to notify the other of serious financial and operational difficulties experienced by firms active in their respective jurisdictions.
11. 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 of requirements of the other Authority, if provided to the Authority.
12. 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.
13. The PRA will notify the FSC and the FSS of plans to examine any branch of a U.K. banking or insurance organisation located in the Republic of Korea and the FSC and the FSS will notify the PRA of plans to inspect any branch of a Korean banking and insurance organisation located in the United Kingdom, where such examination is necessary in accordance with the home authority's regulatory function. The examination may be conducted either by the home authority directly or by a third party on its behalf. The home authority shall give, where practicable, at least 7 days' notice of any such examination or inspection. The home authority may inform the host authority of any subject matter in which it has a particular concern or interest. The host authority may, at its discretion, accompany the home authority to any examination or inspection.

Recovery & Resolution planning

14. This MoU seeks to facilitate rapid information exchange and co-operation & liaison, to address information sharing in emergency/crisis situations between supervisory authorities for recovery and resolution planning purposes (both bilaterally and through any CMG to which both parties are members and at least one party 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.
15. To the extent that any 'Co-operation Agreement' (COAG) is established between the parties¹ at a future date, this will aim, subject to the agreement of the parties, 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, though the approach that has been developed by the FSB ("Information Sharing for Resolution Purposes").
16. To the extent practicable and as appropriate in the particular circumstances, each Authority will endeavour to provide the requested information 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 country of the requesting authority. This will, however, be without prejudice to any arrangements relating to specific prudential issues

Enforcement

17. 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.
18. The parties recognise that there may be circumstances in which one or the other of them wishes to take enforcement action in situation where the other party has a regulatory interest. Appendix 1 sets out what the parties have agreed with respect to such cases, and in relation to requests for assistance in enforcement matters.

Requests for Assistance

19. 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:

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

- (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;
- (d) obtaining specified 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 requested Authority pursuant to paragraphs (e) - (f) ̄above.

Procedure for Requests

20. 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 requested Authority and by the applicable laws, regulations and requirements in relation to the requested Authority.

Assessing Requests

21. Each request for assistance will be assessed on a case-by-case basis by the requested 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 requested 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.

22. 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.
23. In deciding whether and to what extent to fulfil a request, the requested 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 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) 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 requested 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 requested Authority of its functions.
24. The authorities recognise that assistance may be denied in whole or in part for any of the reasons mentioned in paragraph 25 in the discretion of the requested Authority.

Provision of Unsolicited Information

25. The Authorities may provide information, or arrange for information to be provided, on a voluntary basis, even though no request has been made.

Contact Points

26. 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

27. 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

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

Publication of this MoU

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

Review of this MoU and of supervisory developments

30. 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

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

Executed by the Parties:

Executed by the Parties:

For the FSC

For the PRA

Chairman Je-Yoon Shin

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

Date: 1 April 2014

Date: 1 April 2014

For the FSS

For the Bank of England

Governor Soohyun Choi

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

Date: 1 April 2014

Date: 1 April 2014

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 requested 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 requested 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 requested 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 requested 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 requested Authority. Requests for such assistance should conform to any published guidance for the making of such requests issued by the requested 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 FSC and the FSS for a joint investigation should be made, through the Director of the FSC International Finance Division and the Director General of the FSS International Cooperation Department. Suggestions to the PRA should be made to the Head of the PRA Legal Intervention Department within the Prudential Legal Function in the PRA.