

## **MULTILATERAL MEMORANDUM OF UNDERSTANDING ON SUPERVISORY COOPERATION AND EXCHANGE OF INFORMATION**

This Multilateral Memorandum of Understanding (MMoU) is made

BETWEEN,

ON THE ONE HAND,

The Bank of England (including in its capacity as the Prudential Regulation Authority) (the Bank), with its headquarters at Threadneedle Street London EC2R 8AH, the United Kingdom,

and

The Financial Conduct Authority (FCA), with its headquarters at 12 Endeavour Square, London, E20 1JN, the United Kingdom, to the extent that the FCA is the national competent authority for their respective functions laid down by law,

hereinafter collectively referred to as the "UK Authorities",

AND, ON THE OTHER HAND,

ALL OF THE FOLLOWING INSURANCE INDUSTRY SUPERVISORS OF THE EUROPEAN ECONOMIC AREA (EEA):

Finanzmarktaufsicht, with its headquarters at Otto-Wagner-Platz 5, 1090 Wien, Austria and Bundesministerium für Finanzen with its headquarters at Johannesgasse 5, 1010 Wien, Austria;

Nationale Bank van België/ Banque nationale de Belgique, with its headquarters at boulevard de Berlaimont 14, 1000 Brussels, Belgium;

Autoriteit voor Financiële Diensten en Markten/ Autorité des Services et Marchés Financiers, with its headquarters at Rue du Congrès/Congresstraat 12-14, 1000 Brussels;

Комисия за Финансов Надзор/the Financial Supervision Commission, with its headquarters at 16 Budapeshta str., 1000 Sofia, Bulgaria;

Hrvatska Agencija za Nadzor Financijskih Usluga, with its headquarters at Franje Račkoga 6, 10 000 Zagreb, Croatia;

Υπηρεσία Ελέγχου Ασφαλιστικών Εταιρειών (Insurance Companies Control Service), with its headquarters at 29 Byron Avenue, 1096 Nicosia, Cyprus;

Česká národní banka, with its headquarters at Na Příkopě 28, 115 03 Praha 1 Czech Republic;

Finanstilsynet, with its headquarters at Århusgade 110 2100 København, Denmark;

Finantsinspektion, with its headquarters at Sakala 4, 15030 Tallinn Estonia;

Finanssivalvonta, with its headquarters at Snellmaninkatu 6, 00100 Helsinki, Finland;

MMoU between each EEA Authority and the Bank of England (including in its capacity as Prudential Regulation Authority) and the Financial Conduct Authority

Autorité de Contrôle Prudentiel et de Résolution, with its headquarters at 4 Place de Budapest, 75009 Paris, France;

Bundesanstalt für Finanzdienstleistungsaufsicht, with its headquarters at 108 Graurheindorfer Str., 53117 Bonn, Germany;

Τράπεζα της Ελλάδος/ the Bank of Greece, with its headquarters at 21 E. Venizelos Avenue, 102 50 Athens, Greece;

Magyar Nemzeti Bank, with its headquarters at Budapest, Szabadság tér 9, 1054 Hungary;

Fjármálaeftirlitið, with its headquarters at 2 Katrinartuni, 105 Reykjavik, Iceland;

Banc Ceannais na hÉireann/ the Central Bank of Ireland, with its headquarters at New Wapping Street, North Wall Quay, Dublin 1, D01 F7X3, Ireland;

Istituto per la Vigilanza sulle Assicurazioni, with its headquarters at via del Quirinale 21, 00187 Rome, Italy;

Finanšu un Kapitāla Tirgus Komisija, with its headquarters at Kungu iela 1, Rīga, LV-1050, Latvia;

Lietuvos Bankas, with its headquarters at Totorių st. 2/8, LT-01121 Vilnius, Lithuania;

Finanzmarktaufsicht, with its headquarters at Landstrasse 109, 9490 Vaduz, Liechtenstein;

Commissariat aux Assurances, with its headquarters at 7 Boulevard Joseph II, 1840 Luxembourg;

Commission de Surveillance du Secteur Financier, with its headquarters at 283, route d'Arlon L-1150 Luxembourg;

Malta Financial Services Authority, with its headquarters at Notabile Road BKR3000, Attard, Malta;

De Nederlandsche Bank, with its headquarters at Westeinde 1, 1017 ZN Amsterdam, the Netherlands;

Autoriteit Financiële Markten, with its headquarters at Vijzelgracht 50, 1017 HS Amsterdam, the Netherlands;

Finanstilsynet, with its headquarters at Revierstredet 3, 0151 Oslo, Norway;

Komisja Nadzoru Finansowego, with its headquarters at Piękna 20, 00-549 Warszawa, Poland;

Autoridade de Supervisão de Seguros e Fundos de Pensões, with its headquarters at Av. da República, n.º 76, 1600-205 Lisboa, Portugal;

Autoritatea de Supraveghere Financiară, with its headquarters at Splaiul Independenței No. 15, District 5, Postal Code 050092, Bucharest, Romania;

Národná Banka Slovenska, with its headquarters at Imricha Karvasa 1, 813 25 Bratislava, Slovakia;

Agencija za Zavarovalni Nadzor, with its headquarters at Trg republike 3, 1000 Ljubljana, Slovenia;

Dirección General de Seguros y Fondos de Pensiones - Ministerio de Economía y Empresa, with its headquarters at Paseo de la Castellana, 44 28046 Madrid, Spain; and

Finansinspektionen, with its headquarters at Brunnsgratan 3, 103 97 Stockholm, Sweden,

hereinafter collectively referred to as the “EEA Authorities”.

The UK Authorities and the EEA Authorities are hereinafter jointly referred to as “Signatory Authorities”.

MMoU between each EEA Authority and the Bank of England (including in its capacity as Prudential Regulation Authority) and the Financial Conduct Authority

THE SIGNATORY AUTHORITIES HAVE REACHED THE FOLLOWING UNDERSTANDING:

**Article 1 - Definitions**

1. For the purposes of this MMoU the following definitions apply:
  - (a) “applicable law” means any law, regulation or requirement applicable to the EEA Authorities or to a UK Authority and for the avoidance of doubt includes any rule, direction, requirement, guidance or policy made or given by or to be taken into account by a Signatory Authority; but insofar as the term ‘applicable laws, regulations and requirements’ applies to a UK Authority, its meaning does not include European laws, regulations, requirements, rules, directions, guidance or policy that are not part of UK domestic law;
  - (b) “confidential information” means, in respect of a Signatory Authority, any information regarded as confidential by the laws, regulations and requirements applicable to that Signatory Authority;
  - (c) “cross-border (re)insurance establishment” means a (re)insurance third-country branch of, subsidiary of, or any other legal entity of a supervised UK-based entity, taking-up or pursuing insurance or reinsurance business in the jurisdiction of a EEA Signatory Authority, which is its host supervisor, and vice versa;
  - (d) “cross-border group” means a group, as defined in Article 212(1)(c) of the Solvency II Directive<sup>1</sup>, or equivalent provisions of UK law, with a (re)insurance undertaking(s) in: (i) the EEA where the ultimate parent undertaking or the undertaking exercising centralised coordination is based in the UK; or (ii) the UK where the ultimate parent undertaking or the undertaking exercising centralised coordination is based in the EEA; it can also mean a third-country group with operations in the UK and EEA;
  - (e) “(re)insurance third-country branch” means an UK-authorized branch of a (re)insurance undertaking licensed in an EEA State, or an EEA-authorized branch of a (re)insurance undertaking licensed in the UK, operating insurance or reinsurance business;
  - (f) “special purpose vehicle” means an undertaking, whether incorporated or not, other than an existing (re)insurance undertaking, which (i) is authorised in the EEA and assumes (re)insurance risks from (re)insurance undertakings authorised in the UK; or (ii) is authorised in the UK and assumes (re)insurance risks from (re)insurance undertakings authorised in the EEA;
  - (g) “person” means a natural person, legal entity, partnership or unincorporated association;
  - (h) “Requesting Signatory Authority” means a Signatory Authority making a request for assistance or information under this MMoU;
  - (i) “Disclosing Signatory Authority” means a Signatory Authority to whom a request for assistance or information is made under this MMoU;
  - (j) “permitted onward recipient” means an agency/authority of the EU/EEA or a national agency/authority in the jurisdiction of the Signatory Authorities, responsible for the recovery and resolution of cross-border (re)insurance establishments, including insurance guarantee schemes, macro-prudential supervision, central banking, prosecuting, regulating or enforcing applicable law, with whom a legal gateway exists for the Signatory Authority to share information and where the information exchanged under this MMoU is necessary to enable the disclosing party or the receiving party to carry out its statutory functions. For the UK, “permitted onward recipient” includes the Bank of England (including in its capacity as the Prudential Regulation Authority), the Financial Conduct

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<sup>1</sup> Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).

MMoU between each EEA Authority and the Bank of England (including in its capacity as Prudential Regulation Authority) and the Financial Conduct Authority

Authority, the Financial Reporting Council, the Financial Services Compensation Scheme, and, for reasons of prudential control – HM Treasury;

- (k) “colleges of supervisors” means a permanent but flexible structure for the cooperation, coordination and facilitation of decision-making concerning the supervision of the cross-border group;
  - (l) “related undertaking” means either a subsidiary undertaking or other undertaking in which a participation is held, or an undertaking linked with another undertaking by a relationship as set out in Article 22(7) of Directive 2013/34/EU<sup>2</sup> or equivalent provisions of UK law;
  - (m) “emergency/crisis situation” means where a Signatory Authority (or Authorities) is (are) seeking urgently to manage a circumstance where a cross-border (re)insurance establishment is or can reasonably be expected to be financially impaired, such that it will or is likely to affect adversely the operation of the firm and potentially result in damage to financial stability and the wider financial system.
2. The Signatory Authorities recognise that while identical terms may be defined differently in their applicable law, requests for assistance under this MMoU will not be denied because of such definition differences.

**Article 2 - Principles**

- 3. The Signatory Authorities agree herewith to establish cooperation arrangements between the UK Authorities, on the one hand, and, on the other hand, each single EEA Authority, subject to this MMoU.
- 4. The Signatory Authorities endeavour to provide assistance and cooperate with trust and full mutual respect, in particular in ensuring the flow of appropriate and reliable information between them, including for the purposes of supervising: (a) cross-border (re)insurance establishments incorporated either in the UK or in an EEA State; (b) cross-border groups; or (c) special purpose vehicles established in the UK or in an EEA State.
- 5. The purpose of this MMoU is to establish a formal basis for co-operation between the Signatory Authorities, including the exchange of supervisory information and supervisory assistance. This is based on the understanding that equivalent obligations of professional secrecy apply to any person who receives information exchanged under this MMoU. For the purposes of this MMoU, professional secrecy means the general legal obligation of a Signatory Authority not to disclose confidential information received in an official capacity.
- 6. Supervisory cooperation under this MMoU is expected to serve the Signatory Authorities in discharging their duties to ensure adequate levels of policyholder protection and to promote the prudential soundness of the insurance industry and the financial stability in their respective countries.
- 7. This MoU is not intended to create commitments for the UK Authorities in relation to each other, or for the EEA Authorities in relation to each other.
- 8. The Signatory Authorities recognise the need and the benefit of providing mutual assistance in on-going supervision and on-site inspections and in exchanging information in relation to insurance and reinsurance undertakings with cross-border establishments in the UK and EEA. In particular, subject to their competencies under applicable law and following a proportionate approach taking into account the

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<sup>2</sup> Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p.19).

MMoU between each EEA Authority and the Bank of England (including in its capacity as Prudential Regulation Authority) and the Financial Conduct Authority

nature, scale and complexity of the risks of the cross-border (re)insurance establishment or group, the Signatory Authorities aim to cooperate proactively where possible, in the following areas, but not limited to:

- (a) authorisation and supervision of third-country insurance and reinsurance branches,
  - (b) authorisation of related undertakings of insurance and reinsurance undertakings, including the suitability and the financial soundness of the shareholders and members with qualifying holdings,
  - (c) the prospective fitness and propriety assessment of persons who effectively run the undertaking or who hold other key functions, of a cross-border establishment,
  - (d) measures to ensure service continuity in insurance and any consumer protection issues arising from the disruption of service continuity,
  - (e) the Signatory Authorities' initial and follow-up supervisory assessment of internal models,
  - (f) the outcome of supervisory review process at solo and group level, including information about any deterioration of financial/solvency conditions and/or deficiencies in the system of governance including risk management and internal control of the cross-border (re)insurance establishment or cross-border groups,
  - (g) qualitative and quantitative reporting data and information relevant for supervision of the business, as agreed by the concerned Signatory Authorities,
  - (h) assisting each-other in securing compliance with their respective applicable law,
  - (i) information on recovery plans,
  - (j) cooperation and information exchange in relation to financial crime/anti money laundering,
  - (k) details on guarantee schemes coverage in cases when a cross-border (re)insurance establishment has fallen into financial difficulties,
  - (l) conduct of business supervision; and
  - (m) authorisation and supervision related to intermediaries (with activities/branches in the UK or the EEA), however without needing to apply proportionality to cooperation request in such cases.
9. The Signatory Authorities, subject to their competencies under applicable law, also aim to cooperate ad hoc in all cases where major supervisory concerns emerge in the supervision of (re)insurance business in the UK and EEA.
10. The Signatory Authorities cooperate in a timely manner, upon request, for the purpose of: (re)insurance authorisation of; or assessment of a proposed qualifying holding acquisition in/by cross-border (re)insurance establishments supervised by the relevant Signatory Authorities, by means of:
- (a) exchanging relevant information to assist each other in assessing and reaching their own decisions on authorisation applications made to them;
  - (b) confirming where relevant that, where a Signatory Authority supervises an insurance or reinsurance undertaking which has made an application to another Signatory Authority, the Signatory Authority which supervises the undertaking has no objection to the application being made to the other Signatory Authority; or
  - (c) providing supervisory assessment of the viability of the financial and solvency position of the relevant cross-border (re)insurance establishments supervised by a Signatory Authority.
11. Subject to proportionality considerations and taking into account the nature, scale and complexity of the risks exposures, the Signatory Authorities agree to share information in its possession which they believe

MMoU between each EEA Authority and the Bank of England (including in its capacity as Prudential Regulation Authority) and the Financial Conduct Authority

may assist each other in their respective supervisory assessments and decisions for a (re)insurance undertaking and its cross-border establishments operating in the jurisdiction of the Signatory Authorities. This includes cooperation and assistance in relation to a Signatory Authority's supervisory assessment of an undertaking's internal models, both for initial authorisation and for the later approval of changes.

12. The Signatory Authorities agree that the extent of cooperation sought and provided in the areas covered in paragraphs 8 to 11 will take into account the importance of the operations of an insurance or reinsurance undertaking and its cross-border (re)insurance establishments for the Signatory Authorities in question based on the nature, scale and complexity of the specific risk exposures.
13. The Signatory Authorities, subject to the applicable law, intend to invite each other to participate in and fully cooperate in the work of supervisory colleges (and where relevant, Crisis Management Groups) concerning cross-border groups organised by a Signatory Authority as group supervisor.
14. Where a Signatory Authority needs to take a remedial action to address a material supervisory concern with regard to an event that may endanger the financial stability of the whole or part of the financial system of one or all jurisdictions of the Signatory Authorities, for example an early intervention measure, it endeavours to notify the concerned Signatory Authority(/ies) in advance, or, if not feasible due to preventing circumstances, as soon as possible.
15. If a specific conduct of business, as referred to in the request for assistance, may be breaching the law applicable to Signatory Authorities, the relevant Signatory Authorities undertake to consult each other to determine the most appropriate means for assistance.
16. The Signatory Authorities acknowledge that they are only allowed to provide information or mutual assistance under this MMoU if permitted or not prevented under applicable law.
17. This MMoU does not modify or supersede any applicable law in force in, or applying in, the jurisdictions of the Signatory Authorities. This MMoU is a statement of intent and is not legally binding on its Signatory Authorities. It does not create directly or indirectly any legally enforceable rights or obligations for the Signatory Authorities or third parties.
18. The Signatory Authorities will make all reasonable efforts to provide information or deal with requests for assistance under this MMoU in a timely manner.
19. For the purposes of the effective implementation and administration of this MMoU, the Signatory Authorities endeavour to inform each other of material developments in their regulatory systems or supervisory regimes affecting the operation of this MMoU in a timely manner, including the operation of guarantee schemes where relevant.
20. The Signatory Authorities aim to meet regularly (and at least on an annual basis) at a location and time they have agreed upon to discuss topics of mutual interest.

**Article 3 - Provision of unsolicited information**

21. The Signatory Authorities endeavour to proactively inform each other of any event which has the potential to endanger the functioning/solvency of a cross-border (re)insurance establishment, cross-border group or special purpose vehicle within their respective jurisdictions. Such events may include:
  - (a) any serious violation of applicable law with regard to cross-border (re)insurance establishments, cross-border groups or special purpose vehicles under their supervision;
  - (b) serious financial difficulties or relevant weaknesses related to the management, internal controls or reputation, including breach or likely breach of the applicable supervisory or legislative requirements in the respective jurisdiction of the Authorities;

MMoU between each EEA Authority and the Bank of England (including in its capacity as Prudential Regulation Authority) and the Financial Conduct Authority

- (c) the carrying out of business or the existence of risks which impair the interest of policyholders;
- (d) relevant administrative measures, sanctions or other corrective actions imposed in relation to relevant cross-border (re)insurance establishments, cross-border groups or special purpose vehicles. In such cases the notification should be made as soon as reasonably possible;
- (e) other critical material incidents affecting the ability of the (re)insurance undertaking to meet its obligations to policyholders in the relevant jurisdictions, such as significant IT or operational issues affecting the ability of the undertaking to collect premia or pay claims.

22. The Signatory Authorities endeavour to proactively inform each other of:

- (a) any event which has the potential to endanger the financial stability of the insurance market in their respective jurisdictions;
- (b) an emerging crisis, such as serious financial difficulties of an (re)insurance undertaking (for example the activation of the recovery plan or taking of recovery actions) that may have an adverse impact on operations relating to any supervised entity in the respective jurisdictions of the Signatory Authorities.

Wherever and to the extent possible, the Signatory Authorities will co-operate in seeking potential solutions.

#### ***Article 4 - Requests for assistance, and notification and cooperation in respect of on-site visits***

23. If a request for information or other assistance is made, each Signatory Authority will take all reasonable steps to provide assistance to the requesting Signatory Authority, subject to its applicable law and overall policy. Assistance includes, but is not limited to:

- (a) providing information in the possession of the Disclosing Signatory Authorities;
- (b) confirming or verifying information provided for that purpose by the Requesting Signatory 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 Signatory Authority;
- (f) reasonably considering any requests to conduct inspections or examinations of cross-border (re)insurance establishments, cross-border groups and their service providers, and of special purpose vehicles; such requests will detail the purposes, scope, expected starting and ending dates of the inspection/examination, the cross-border (re)insurance establishment to be inspected, and the names of the persons leading the inspection/examination.
- (g) assisting each other in assessing the implications of other critical material incidents, such as a decision of the cross-border(re)insurance establishment on a partial or full relocation of insurance business activities/key functions, including outsourcing a key function in the group.

24. Where a UK Authority (as the host authority) examines or inspects any branch or subsidiary of a EEA (re)insurance undertaking located in the United Kingdom, it will, to the extent permitted by Applicable Laws, Regulations and Requirements, inform the home EEA Authority in a timely manner of any material findings. Where an EEA Authority (as the host authority) examines or inspects any branch or subsidiary of a UK (re)insurance undertaking located in their jurisdiction, it will, to the extent permitted by Applicable Laws, Regulations and Requirements, inform the UK Authorities of any material findings. To

MMoU between each EEA Authority and the Bank of England (including in its capacity as Prudential Regulation Authority) and the Financial Conduct Authority

this end, “material finding” means a finding having a significant impact on the financial situation (e.g. SCR coverage, technical provisions) or the internal organisation or controls of the (re)insurance undertaking.

25. Without prejudice to Applicable Laws, Regulations and Requirements and to the statutory or regulatory host authority’s supervisory powers, the UK Authorities (as the home authority) will notify the relevant EEA Authority in a timely manner of plans to visit any branch or subsidiary of a UK (re)insurance undertaking located and authorised in that EEA jurisdiction. Without prejudice to the statutory or regulatory host authority’s supervisory powers, and to the extent permitted by Applicable Laws, Regulations and Requirements, the EEA Authority (as the home authority), will notify the UK Authorities in a timely manner of plans to visit any branch or subsidiary of an (re)insurance undertaking supervised by that EEA Authority located in the UK. The Authority in the country where such visits are to take place will inform the visiting Authority of any concern or local requirements it may have relevant to the visit, and subject to applicable law, may express interest in participating in the visit. For the purposes of this paragraph, visits by a home authority to the cross-border operations of a (re)insurance undertaking will normally be to assist the home authority in understanding any group-wide or undertaking-wide risks or controls arising from the operations of the cross-border establishment. Responsibility remains with the host authority to examine or inspect the local operations of an undertaking to ensure compliance with any applicable local requirements.
26. Where appropriate the Signatory Authorities may invite the representatives of the Requesting Signatory Authority to participate in the conduct of enquiries made by or on behalf of the Disclosing Signatory Authorities as per above examples, etc.
27. To enhance the quality of supervisory cooperation and assistance, representatives of one or more UK Authority and an EEA Authority, may arrange respectively to meet at the request of that EEA Authority or the UK Authority(ies) to discuss issues that concern cross-border (re)insurance establishments and cross-border groups relevant for their jurisdictions.

#### **Article 5 - Procedure for requests**

28. Requests for the provision of information or other assistance should be made in writing, or – in exceptional circumstances, such as emergency/crisis situation – orally and, unless otherwise agreed, confirmed in writing within ten business days, addressed to the relevant contact person(s) designated in the Annex hereto (unless an alternative contact name is agreed). The Annex hereto will be updated, at least annually, following a notification of the new contact points by the Signatory Authority concerned to all Signatory Authorities and EIOPA, which shall produce a consolidated list of updated contact points and share it with all Signatory Authorities in good time.
29. To facilitate the assistance, the Requesting Signatory Authority should specify:
  - (a) the information or other assistance sought (identity of persons, specific questions to be asked, etc.);
  - (b) the urgency of the request for information or assistance and the desired timeframe for the information to be provided by the Disclosing Signatory Authorities;
  - (c) the purpose for which the information or other assistance is sought (including details of the laws and regulatory requirements pertaining to the matter which is the subject of the request);
  - (d) whether the assistance request relates to an actual or possible enforcement action (if so, the matters listed in paragraph 32 hereto will be provided);



MMoU between each EEA Authority and the Bank of England (including in its capacity as Prudential Regulation Authority) and the Financial Conduct Authority

- (e) if it is likely to be necessary or the Requesting Signatory Authority to pass on the information provided by the Disclosing Signatory Authority to a third party, including the name of that third party, in particular where that party is not a permitted onward recipient, and the purpose such disclosure would serve;
  - (f) any other matters specified by the Disclosing Signatory Authorities and by the applicable law in relation to the Requesting Signatory Authority.
- 30. The requested information must facilitate compliance by the Requesting Signatory Authority with the applicable law specified in its request.
- 31. The Signatory Authorities may agree on other procedures for providing information if they wish.
- 32. If a request for assistance, as described in this MMoU, 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 and policies applying to the Disclosing Authority, any staff member 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 paragraph 33).
- 33. The following additional provisions also apply in the case of a request for cooperation or assistance in relation to an actual or possible enforcement action:
  - (a) If, following a request from the Requesting Authority, the Disclosing 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 considered 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.
  - (b) The Signatory 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.
  - (c) The Signatory 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.

MMoU between each EEA Authority and the Bank of England (including in its capacity as Prudential Regulation Authority) and the Financial Conduct Authority

- (d) If the Signatory 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.

#### **Article 6 - Assessing requests**

- 34. Each request for information or assistance will be assessed on a case-by-case basis by the Disclosing Signatory Authorities bearing in mind the overarching principles of this MMoU to determine whether assistance and/or information can be provided hereunder. If the request cannot be fulfilled in part or whole, the Disclosing Signatory Authority will consider whether there may be other assistance it or another authority in its jurisdiction could reasonably provide.
- 35. Reasonable requests for assistance made under this MMoU will not be unreasonably withheld. In deciding whether and to what extent to fulfil the request, the Disclosing Signatory Authorities may take into account:
  - (a) whether the request conforms with this MMoU;
  - (b) whether the request involves the application/enforcement of a law, regulation or requirement which has no close parallel in the jurisdiction of the Disclosing Signatory Authorities;
  - (c) whether the provisions of assistance would be so burdensome as to disrupt the proper functioning of the Disclosing Signatory Authorities;
  - (d) whether it would be otherwise contrary to the public interest in the jurisdiction of the Disclosing Signatory Authorities to provide the information requested or give the assistance sought;
  - (e) any other matters specified by applicable law of the Disclosing Signatory Authorities' 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 Disclosing Signatory Authorities of its functions; and
  - (g) the reason for the request.
- 36. The Disclosing Signatory Authorities may, as a condition of agreeing that assistance is given under the MMoU, ask the Requesting Signatory Authority to make a contribution to costs where the cost of a request is substantial.
- 37. The Signatory Authorities recognise that assistance and/or information may be denied in whole or in part for any reasons, including for those mentioned above, at the discretion of the Disclosing Signatory Authorities. Where a request is denied in whole or part, the Disclosing Signatory Authorities informs on a best effort basis the Requesting Signatory Authority in a timely manner, and whenever possible include the reasons for the refusal of the request.
- 38. Where appropriate the Disclosing Signatory Authorities may also seek additional confirmation or agreement to further conditions from the Requesting Signatory Authority concerning the use of confidential information shared under this MMoU.

#### **Article 7 Confidentiality, professional secrecy and data protection**

- 39. For the purposes of cooperation under this MMoU, the Signatory Authorities will exchange confidential information if the recipient Signatory Authority will treat such information as confidential, in accordance with the confidentiality requirements and safeguards appropriate to the nature and the level of

MMoU between each EEA Authority and the Bank of England (including in its capacity as Prudential Regulation Authority) and the Financial Conduct Authority

sensitivity of that information, as set out in the relevant provisions of its respective laws, regulations and requirements, and in this MMoU. The Signatory Authorities agree that all confidential and sensitive information will be shared via a secure communication channel.

40. The Signatory Authorities acknowledge that all exchanges under this MMoU, in particular information regarded as confidential under their applicable laws, regulations and requirements, in the jurisdictions of the Signatory Authorities, are treated as confidential unless specified otherwise. Any confidential information received by the Signatory Authorities on the basis of this MMoU is intended to be used exclusively to discharge their supervisory duties, and may not be disclosed except as set out below.
41. Each Receiving Signatory Authority will treat confidential information that it receives under this MMoU in accordance with their applicable laws, regulations and requirements.
42. The Signatory Authorities will ensure that all persons dealing with, or having access to, confidential information exchanged under this MMoU (including staff members of the Signatory Authorities, external personnel and providers having access to confidential information) are bound by professional secrecy obligations set out in the Solvency II Directive (for EEA authorities) and to the equivalent legal provisions in the UK (for the UK authorities), including after the termination of their duties.
43. Other than in the circumstances set out in paragraphs 44 and 45 below, a requesting Signatory Authority confirms that it will obtain written prior consent from the Disclosing Signatory Authority before passing on any confidential information it receives under this MMoU to any third party, entity or authority (such consent not to be unreasonably withheld). Before disclosing the information obtained pursuant to this MMoU to third parties, the requesting Signatory Authority will obtain confirmation that the third party is subject to similar confidentiality provisions as within the MMoU, and will ensure a commitment from the third party to keep the information confidential.
44. The UK Authorities may, subject to applicable laws, regulations or requirements, disclose confidential information received under this MMoU to a permitted onward recipient in the UK. Similarly, the EEA Authorities may, subject to applicable laws, regulations or requirements, disclose confidential information received under this MMoU to a permitted onward recipient in the EEA. The relevant Signatory Authority will notify the other Signatory Authority if it proposes to pass on confidential information to a permitted onward recipient within their jurisdiction pursuant to this paragraph, together with the purpose and scope of the disclosure to the other Signatory Authority as applicable.
45. If a Signatory Authority is required by law or a legally enforceable request to disclose confidential information provided under this MMoU to a third party, the Signatory Authority will inform the Disclosing Signatory Authority who originally provided the information of the situation in advance of the disclosure and will seek its consent. Where it is not practicable for reasons of urgency (for example in an emergency/crisis situation) to inform the Disclosing Authority in advance the Signatory Authority will notify the Disclosing Signatory Authority as soon as reasonably practicable thereafter. Where the Disclosing Signatory Authority has not given consent to the Requesting Authority to pass on confidential information to a third party, the Requesting Signatory Authority endeavours to use all reasonable legal means to the extent permitted by applicable law to protect the confidentiality of the information or propose alternative means to comply with the request or demand.
46. The Signatory Authorities will inform each other on a best-effort basis and to the extent possible and without undue delay of any disclosure of confidential information.
47. The Signatory Authorities will ensure the confidentiality of any request, contents of such requests, exchanges of information and any other matter arising under this MMoU, as well as the protection of personal data contained in such requests and exchanges of information. The Signatory Authorities process any personal data contained in the information in accordance with the legislation applying to the Signatory Authorities. Alternatively, the Signatory Authorities may agree to implement detailed, common administrative arrangements for the processing of personal data.

MMoU between each EEA Authority and the Bank of England (including in its capacity as Prudential Regulation Authority) and the Financial Conduct Authority

48. The Requesting Signatory Authority will submit in writing its requests for disclosure of information to a third party and address them to the contact person(s) set out in the Annex hereto (or to an alternative contact where agreed). The Disclosing Signatory Authority will endeavour to respond to a request to disclose confidential information as soon as practicable.

**Article 8 - Consultation and collaboration under this MMoU**

49. The Signatory Authorities will keep the operation of this MMoU under regular review and collaborate with a view to improving its operation and addressing any MMoU-related issues.

**Article 9 - Entry into effect and termination of the MMoU**

50. This MMoU enters into force on the date the European Treaties and EU secondary legislation have ceased to apply in the United Kingdom.
51. This MMoU remains in effect until terminated by a written notice addressed to all Signatory Authorities and given 30 calendar days in advance of the termination date. The Signatory Authorities will take steps to ensure that the termination does not affect any prior obligation, project or activity already in progress.

To this end, the following applies:

- (a) if the MMoU is terminated by a single or several EEA Authority(/ies), it stays in force for the remaining Signatory Authorities;
  - (b) if the MMoU is terminated by a single UK Authority, it stays in force for the remaining Signatory Authorities;
  - (c) if the MMoU is terminated by both UK Authorities, it ceases to produce effects with regard to all Signatory Authorities.
52. Upon termination, the Signatory Authorities agree to maintain their respective obligations to maintain the confidentiality of any and all information that has been shared between them under this MMoU prior to termination.
53. This MMoU may be amended by mutual agreement and in writing. In the case of accession of new countries to the EEA, the UK Authorities shall be notified thereof. This notification along with the agreement of the new EEA Member State to join this MMoU constitutes the latter's insurance industry supervisors as a Signatory Authority to this MMoU.
54. This MMoU may be made publicly available in full or part by any of the Signatory Authorities, at any time and in any manner including publication electronically on the website of one or more of the Authorities.
55. In the case that one of the Signatory Authorities merges with another authority or agency or their competence is transferred to another authority or agency within their jurisdiction (succession), this MMoU should be maintained with the same provisions, unless otherwise determined. This automatic succession will not affect the right of the Signatory Authorities, including any successor, to terminate the MMoU in accordance with this Article.

Done in three originals.