

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE FINANCIAL SUPERVISORY COMMISSION, TAIWAN
AND
THE NEW YORK STATE INSURANCE DEPARTMENT
CONCERNING MUTUAL COOPERATION

1. The Financial Supervisory Commission, Taiwan (the “FSC”) and the New York State Insurance Department (the “Department”) have reached the following understanding in order to establish an arrangement for the sharing of information to facilitate the performance of their respective duties and to promote the safe and sound functioning of insurance companies that have cross-border establishments in their respective jurisdictions. This understanding demonstrates the commitment of both regulators to the principles of effective consolidated supervision and cooperation between insurance regulators.

2. The FSC and the Department express, through this understanding, their willingness to cooperate with each other on the basis of mutual trust and understanding in the regulation of cross-border establishments located within their respective jurisdictions. A “cross-border establishment” is defined as an office within the host jurisdiction that gives rise to the need for consolidated regulation by the home regulator.

3. The FSC is Taiwan’s national financial services and markets regulator and is authorized by the Organic Act of Financial Supervisory Commission, Executive Yuan, and other applicable laws and regulations to supervise financial services, financial products and financial markets in Taiwan.

4. The Department is an agency of the New York State government. The Department is responsible for supervising and regulating the insurance industry and all insurance business conducted in New York State.

Sharing of information

5. The FSC and the Department recognize that information should be shared in order to facilitate effective consolidated regulation and supervision of insurance companies operating across their national borders. Information-sharing includes contact during the authorization and licensing process, throughout the regulation of the ongoing activities of such entities, and in the handling of problem resolution.

6. In connection with the licensing process:

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NYS Insurance Department
Office of General Counsel

On-site inspections

9. The FSC and the Department recognize that cooperation is particularly useful in the conduct of on-site inspections¹ of cross-border establishments in the host jurisdiction. Prior to deciding whether an on-site inspection is necessary, the home regulator should review any relevant examination or other regulatory reports prepared by the host regulator. The home regulator undertakes to notify the host regulator of plans to examine a cross-border establishment or to appoint a third party to conduct an examination on its behalf, and to indicate the purposes and scope of the examination. The host regulator will allow the home regulator to conduct on-site examinations. As may be mutually agreed between the parties, examinations may be carried out by the home regulator alone, or accompanied by the host regulator. Following the examination, a meeting or other exchange of views should take place between the examination team and the host regulator.

Protection of information

10. The FSC and the Department recognize that mutual trust can only be achieved if exchanges of information can flow in confidence in both directions. Both regulators agree to take all possible steps to preserve the confidentiality of any information received. In this regard, employees of both regulatory authorities are bound to hold confidential all information obtained in the course of their duties. Any confidential information received from the other regulator will be used exclusively for lawful regulatory purposes.

11. A regulator in one jurisdiction that has received confidential information from a regulator in another jurisdiction may subsequently receive a request for that information from a third party, including a third party regulatory authority, who has a legitimate common interest in the matter. Prior to passing information to the third party, the regulator will consult with and seek agreement from the regulator that originated the information, who may attach conditions to the release of information, including that the third party recipient be bound to hold the information confidential.

12. In the event that a regulator is legally compelled to disclose to a third party, including a third party regulatory authority, information that has been provided in accordance with this understanding, the disclosing regulator will promptly notify the regulator that originated the information, indicating what information it is compelled to release and the circumstances surrounding its release. If so required by the originating regulator, the disclosing regulator will use its best efforts to preserve the confidentiality of the information to the extent permitted by law. The FSC and the Department will inform each other of the circumstances in which they may be subject to legal compulsion to release information obtained.

¹ The words “inspection” and “examination” are used here interchangeably.

(a) The host regulator will notify the home regulator, without delay, of applications for approval to establish offices or make acquisitions in the host jurisdiction;

(b) Upon request, the home regulator will inform the host regulator whether the applicant insurance company is in substantial compliance with insurance laws and regulations of the home country and whether the insurance company may be expected, given its administrative structure and internal controls, to manage the cross-border establishment in an orderly manner. The home regulator will also, upon request, assist the host regulator with verifying or supplementing any information submitted by the applicant insurance company;

(c) The home regulator will inform the host regulator about the nature of its regulatory system and the extent to which it will conduct consolidated regulatory supervision over the applicant insurance company. Similarly, the host regulator will inform the home regulator about the nature of its regulatory system and the extent to which it will regulate the cross-border establishment of the applicant insurance company; and

(d) To the extent permitted by law, the home and host regulators will share information on the fitness and qualifications of prospective managers of a cross-border establishment.

7. In connection with the ongoing regulation of cross-border establishments, the two regulators intend to:

(a) Provide relevant information to their counterpart regarding material developments or regulatory concerns with respect to the operations of a cross-border establishment;

(b) Respond to requests for information on their respective regulatory systems and inform each other about major changes, in particular those that have a significant bearing on the activities of cross-border establishments;

(c) Inform their counterpart of material administrative penalties imposed on, or other formal enforcement action taken against, a cross-border establishment. Prior notification thereof shall be given to their counterpart to the extent practicable and subject to applicable laws; and

(d) Facilitate the transmission of any other relevant information to their counterpart that might be required to assist with the regulatory process.

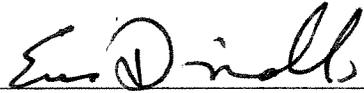
8. Requests for information will normally be made in writing. However, where the regulatory authorities perceive a need for expedited action, requests may be initiated in any form but should be confirmed subsequently in writing. A request for information may be denied on the grounds of public interest or national security or where disclosure would interfere with an ongoing investigation.

Ongoing Coordination

13. The FSC and the Department agree to promote their cooperation through visits for information purposes and, where practicable, by exchanges of staff. In addition, the two regulators agree to consider how the training of staff at either agency might benefit from input and support by the other agency in order to reinforce sound insurance regulatory practices in both jurisdictions.

14. The FSC and the Department will conduct meetings as often as appropriate to discuss issues concerning insurance companies that maintain cross-border establishments in the respective jurisdictions and to review the effectiveness of cooperation arrangements.

The New York State Insurance Department

By: 
Title:

Dated: 9/7/17

The Financial Supervisory Commission, Taiwan

By: 
Title:

Dated: 9/17/17