

Memorandum of Understanding



between the

Turks and Caicos Islands Financial Services Commission

(TCIFSC)

and the

Anguilla Financial Services Commission (AFSC)

For the Exchange of Information

MEMORANDUM OF UNDERSTANDING FOR THE EXCHANGE OF INFORMATION

This MEMORANDUM OF UNDERSTANDING is made in the form hereof this 13th day of ~~January~~ February 2018

BETWEEN:

The Turks and Caicos Islands Financial Services Commission, a body corporate established by the Financial Services Ordinance 2001 and continued under the Financial Services Commission Ordinance CAP 16.01 of the Turks and Caicos Islands (hereinafter “TCIFSC”) with responsibility for supervision and regulation of Financial Service business in the Turks and Caicos Islands pursuant to Section 4 of the Financial Services Commission Ordinance 2007; and

The Anguilla Financial Services Commission, a body corporate established pursuant to section 2 of the Financial Services Commission Act, R.S.A. c. F28 (the “FSC Act”) whose principal functions are set out in section 3 of the FSC Act (hereinafter “AFSC”).

The TCIFSC and AFSC are collectively referred to as the “Authorities” and each is referred to as an ‘Authority’.

WHEREAS the Authorities recognize the increasing integration of financial markets and the cross border operations and complex activities of financial institutions operating in the jurisdictions of both Authorities;

WHEREAS, the Authorities, recognize an increased need for mutual cooperation, information sharing, consultation and enforcement between the Authorities;

WHEREAS the Authorities recognize the need to establish a framework under which the Authorities will cooperate for the fulfillment of their respective mandates and the objectives of the Authorities;

WHEREAS the Authorities express through this MOU, their willingness to cooperate and exchange information, particularly in the area of investor protection, market integrity and maintenance of confidence and stability in the financial system;

WHEREAS the Authorities acknowledge the importance of compliance with relevant international standards established by international standard setting bodies;

WHEREAS the Authorities further acknowledge that the laws, regulations, policies and rules of each jurisdiction are designed to protect legitimate public interest and may limit the transmission of information between the Authorities and recognize that this MOU cannot override or modify such laws, regulations and rules; and

NOW THEREFORE, the Authorities have reached the following understandings:

SECTION 1: DEFINITIONS

“Authority” means either the TCIFSC or AFSC as appropriate;

“Authorities” mean the TCIFSC and the AFSC collectively;

“Financial Institutions” mean the persons regulated and supervised by either of the Authorities;

“Jurisdiction” means the country, state or other territory, as the case may be, in which either of the Authorities has legal authority, power and/or jurisdiction by law.

“Memorandum of Understanding” means the arrangements set forth herein for both mutual co-operation and exchange of information between regulatory bodies.

“Person” means a natural person, body corporate, partnership, or unincorporated association, government or political subdivision, agency or instrumentality of a government;

“Requesting Authority” means either one of the Authorities making a request pursuant to Section IV or V of this Memorandum of Understanding.

“Requested Authority” means the Authority to whom a request is made pursuant to Section IV or V of this Memorandum of Understanding;

SECTION II: GENERAL PROVISIONS

1. This MOU is a statement of intent to establish a formal basis for cooperation, information sharing and consultation between the Authorities regarding the oversight and supervision of Financial Institutions that conduct business in the jurisdiction of the Authorities in a manner consistent with and permitted by the laws and regulations that govern the respective Authorities. It is anticipated that cooperation would be achieved in part through ongoing, informal oral consultations but primarily through more formal written communication. The provisions of the MOU are not intended to discourage or hinder informal and oral communication between the Authorities.
2. The MOU does not create any legally binding obligations, confer any rights or supersede the laws and regulations operating within each Authority’s jurisdiction.
3. The MOU seeks to complement existing roles, identify synergies as well as eliminate inefficiencies and unnecessary duplication of effort. It is not intended to alter the provision of existing arrangements between the Authorities. The Authorities intend in particular, and to the maximum extent possible, that the cooperation and information exchange arrangements under this MOU should be implemented in a manner that

balances the varying perspectives of the Authorities in a manner compatible with the statutory obligations of each Authority.

4. The Authorities intend periodically to review the functioning and effectiveness of the arrangements under this MOU with a view, inter alia, to expanding or altering the scope of the provisions of this MOU should that be judged necessary.
5. To facilitate cooperation and exchange of information under this MOU, the Authorities hereby designate a contact person as set out further in the Appendix.

SECTION III: SCOPE OF CONSULTATION, COOPERATION AND EXCHANGE OF INFORMATION

6. The Authorities will endeavor to have close communication concerning the operations of Financial Institutions and intend to converse regularly regarding general supervisory developments and issues relevant to the activities and regulation of such Financial Institutions.
7. The Authorities in particular recognize the need to (a) cooperate on matters related to developing harmonized solutions to supervisory issues; (b) identify and eliminate conflicts, redundancies and regulatory gaps; and (c) formulate policy responses to cross sector and cross border regulatory issues and systemic risk factors.
8. The Authorities will endeavor to inform each Authority in advance of pending regulatory changes that may have a significant impact on the operations, activities, or reputation of a Financial Institution and any material event that could adversely impact each Authority's markets or the stability of a Financial Institution.

SECTION IV: UNDERTAKING OF INSPECTION VISITS

- 9.1 Inspection visits will take place in accordance with the laws of the jurisdiction of the Requested Authority.
- 9.2 The Requested Authority will undertake to carry out all inspection visits requested by the Requesting Authority as is reasonably practical.
- 9.3 The Requesting Authority may seek permission from the Requested Authority to be part of the inspection. In requesting an inspection or permission to be part of the inspection the Requesting Authority shall provide (where applicable):

- 9.3.1 Written explanation of the specific purpose of the requested inspection and the aspects of the operations of the licensee to be inspected
- 9.3.2 The Requested Authority with the names, and positions of those person who the Requesting Authority would like to be included on the inspection team
- 9.3.3 Upon receiving the request for permission to be included on the inspection visit the Requested Authority will determine whether or not it will accept the request for permission to be included on the inspection.

9.4 Where the Requested Authority decides that permission shall not be granted to the Requesting Authority to be part of the inspection the Requested Authority shall in writing indicate same and give reasons for its decision

9.5 During the course of any inspection the Requesting Authority shall not be entitled to have access to the name and/or title and/or other information of any account or accounts of a depositor or of any Trust or Trusts held by the Financial Institution being inspected unless the Requesting Authority can satisfy the Requested Authority that the voluntary consent of such account holder or settlor or trustee, as the case may be, has been obtained and a copy of such written consent has been provided to the Requested Authority. Any information gathered in the inspection shall only be used for the purposes as specified in the request pursuant to 9.3 above or other regulatory purposes.

9.6 The Requested Authority shall at a reasonable time but no longer than (3) months from the end of the inspection unless otherwise mutually agreed produce and submit to the Requesting Authority a final Report on the inspection.

9.7 All members of the inspection team will be required to give an undertaking of confidentiality pursuant to Section VIII of this Memorandum of Understanding.

SECTION V: REQUESTS FOR ASSISTANCE

10. A request for information should be made in writing, and addressed to the relevant contact person. A request generally should specify the following:
- (i) the information sought by the Requesting Authority;
 - (ii) a general description of the matter which is the subject of the request;
 - (iii) the purpose for which the information is sought; and
 - (iv) the desired time period for reply and where appropriate, the urgency thereof.

11. In urgent situations, the Requesting Authority will endeavor to notify the Requested Authority of the urgency and communicate information to the other as would be appropriate in the particular circumstance. Requests for information under this Section may be made orally, provided such communication is confirmed in writing within three business days of oral request.

SECTION VI: RIGHTS OF A REQUESTED AUTHORITY

12. The Requested Authority may deny requests for assistance under this MOU-
 - (i) where the request would require the Requested Authority to act in a way that would violate the laws of the jurisdiction of the Requested Authority;
 - (ii) where the request is not in accordance with the provisions of this MOU;
 - (iii) where reciprocal assistance would not be given in the territory of the Requesting Authority
 - (iv) on the grounds of public interest.
13. Each request will be assessed on a case-by-case basis by the Requested Authority to determine whether assistance or information can be provided under the provisions of this MOU;
14. Where the Requested Authority denies a request for information, the Requested Authority will provide to the Requesting Authority the reasons in writing within three business days of the denial.

SECTION VII: UNSOLICITED INFORMATION

15. Where the Authority has information that will assist the other Authority to perform its regulatory functions, the former may provide such information fully and freely to the extent permitted by the law, though the other Authority has made no request. The provisions of the MOU will apply in such circumstances.

SECTION VIII: PERMISSIBLE USES AND CONFIDENTIALITY OF INFORMATION

16. The Authorities will, to the full extent permitted by the laws, regulations and rules of their respective jurisdictions keep confidential:
 - (i) any request for assistance or information pursuant to this MOU;
 - (ii) any information received or provided pursuant to this MOU; and
 - (iii) any matter arising during the operation of this MOU, including cooperative, consultative or unsolicited information and assistance.

17. For the purposes of this MOU, confidential information includes, but is not limited to matters such as the identity, assets, liabilities, transactions or accounts of a Financial Institution.
18. The Requesting Authority will not disclose the assistance or information obtained pursuant to this MOU to third parties. However, where the Requesting Authority has obtained confidential information from a Requested Authority, and believes that sharing that confidential information with a third party is necessary, it will inform the Requested Authority of the third party's interest in this information and the Requested Authority will if deemed fit, consent in writing to the information being shared with or used by the third party prior to the information being provided to the third party by the Requesting Authority.
19. A Requesting Authority may provide any information received from a Requested Authority to another local or foreign financial services regulatory body upon prior written consent of the Requested Authority. Consent under this paragraph may be granted if:
 - (i) the purpose of passing on such information falls within the scope of this MOU; and
 - (ii) a prior written undertaking has been given by the local or foreign financial services regulatory body to the Requested Authority that it will, and is legally obliged to maintain the confidentiality of the information.
20. The Authorities understand that the laws, regulations and rules of their respective jurisdictions, may place limitations on use and disclosure of non-public information obtained pursuant to this MOU.
21. In the event that an Authority is legally compelled by an order of the court to disclose to a third party including a third party supervisory authority, information that has been provided in accordance with this MOU, that Authority should promptly notify the Requested Authority, indicating what information it is compelled to release and the circumstances surrounding the release.
22. The Authorities understand that information requested under the auspices of this MOU will not be used for any purpose other than that identified under paragraph 10 without the written consent of the Requested Authority.

23. The Authorities intend that the disclosure of non-public information between each other, including but not limited to deliberative and consultative materials pursuant to the provisions of the MOU, does not constitute a waiver of privilege or confidentiality of such information.
24. The confidential treatment of assistance and information by the Authorities will continue when an Authority gives notice of its intention to cease co-operation under this MOU.

SECTION IX: COSTS

25. If it appears that the Requested Authority will incur costs in responding to a request for assistance under this MOU, the Authorities may establish at the reasonable request of the Requested Authority an arrangement in writing for dealing with such costs, before proceeding to respond to such a request for assistance.

SECTION X: AMENDMENT

26. The Authorities may take practical measures as may be necessary to facilitate the implementation of this MOU. Accordingly, the Authorities may in writing and by consensus, waive, amend or alter any provision of the MOU.

SECTION XI: TERMINATION

27. Cooperation in accordance with this MOU will continue until the expiration of 30 days after an Authority gives written notice to the other Authority of its intention to terminate its cooperation under the MOU. If either Authority gives such notice, cooperation will continue with respect to all requests for assistance that were made under the MOU before the effective date of notification until the Requesting Authority terminates the matter for which assistance was requested. In the event of termination of this MOU, information obtained under this MOU will continue to be treated in the manner prescribed under Section VIII.

SECTION XII: EXECUTION OF MEMORANDUM

28. This MOU will govern the cooperation and exchange of information among the Authorities that are signatories to it as of the date of the execution by the respective Authorities

SIGNED on the 19 day of January 2018

by:



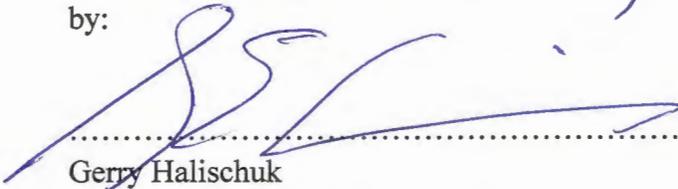
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Niguel Streete

Managing Director, for and on behalf of the

Turks and Caicos Islands Financial Services Commission

SIGNED on the 13th day of February 2018

by:



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Gerry Halischuk

Director, for and on behalf of the

Anguilla Financial Services Commission

APPENDIX

DESIGNATED CONTACT OFFICERS

Designated Contact Officers on behalf of the **Turks and Caicos Islands Financial Services Commission** are as follows:

All Requests to:

Mr. Niguel Streete – Managing Director
nstreete@tcifsc.tc

For Insurance Regulatory Issues kindly copy:

Ms. Corine Bolton
Manager; Domestic Insurance
cbolton@tcifsc.tc

For enforcement purposes kindly copy:

Mr. Marc Rawlins – Legal and Enforcement Consultant
mrawlins@tcifsc.tc

All at:

The Turks and Caicos Islands Financial Services Commission
P.O.Box 173, Harry E. Francis Bldg.,
Pond Street, Grand Turk,
Turks & Caicos Islands
Tel: 649 946 2791
Fax: 649 946 2821
Email: fsc@tcway.tc

Or

Caribbean Place, Leeward Highway
Providenciales, Turks & Caicos Islands
Tel: 649 946 5314
Fax: 649 941 3569

Designated Contact Officers on behalf of the **Anguilla Financial Services Commission** are as follows:

All Requests to:

Mr Gerry Halischuk – Director
gerry.halischuk@afsc.ai

For all supervision purposes kindly copy:

Ms Tina Bryan – Deputy Director, Enforcement and ALM/CFT Compliance
tina.bryan@afsc.ai

and

Ms Charonay Carty – Senior Regulator
charonay.carty@afsc.ai

For all enforcement activities kindly copy:

Ms Tina Byran – Deputy Director, Enforcement and AML/CFT Compliance
tina.bryan@afsc.ai

For all Insurance Regulatory Issues kindly copy:

Ms Charo Richardson – Senior Regulator
charo.richardson@afsc.ai

All at:

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