

MULTILATERAL MEMORANDUM OF UNDERSTANDING

AMONG REGIONAL REGULATORY AUTHORITIES

FOR THE

EXCHANGE OF INFORMATION

AND

COOPERATION AND CONSULTATION

June 2018

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This Memorandum of Understanding (hereinafter "Memorandum") is entered into among Regional Regulatory Authorities (hereinafter "Authorities") who are signatories to this Memorandum.

Whereas the Authorities:

Recognise the need for mutual co-operation among Authorities in the carrying out of their regulatory and supervisory functions under the relevant Laws, Regulations and Rules in their respective Jurisdictions, where cross-border issues arise.

Whereas the Authorities:

Acknowledge the importance of compliance with relevant international standards established by international standard setting bodies such as the International Association of Insurance Supervisors.

Whereas the Authorities:

Acknowledge further that the Laws, Regulations and Rules of each Jurisdiction are designed to protect the legitimate interest of the customers of Insurance Companies and Insurance Intermediaries (hereinafter "Regulated Entities") and may limit the transmission of information among Authorities and recognize that this Memorandum does not create any legally binding obligations, confer any direct or indirect enforceable right, modify or supersede any domestic laws or regulatory requirements that apply to the Authorities.

And Whereas:

This Memorandum is intended to enhance the existing working relationship among the Authorities; each Authority is required to inform the other Authority of the existence of any legislative or administrative restrictions on information exchange.

It is hereby agreed among the Authorities as follows:-

1. DEFINITIONS

For the purpose of this Memorandum:

"Authorities" mean regulatory or supervisory bodies with the power to set standards and supervise insurance institutions;

"Confidential information" means any information regarded as confidential or subject to legal privilege by the laws, regulations and rules of the Authorities;

"days" mean calendar days;

"Executive Council" means the Executive Council of the Caribbean Association of Insurance Regulators;

"Insurance Company" means a Company engaged in the business of insurance that is regulated and supervised by any of the Authorities and includes Reinsurance Companies;

"Insurance Intermediary" means a Company, unincorporated body or individual engaged in the business of insurance brokerage, insurance sales, insurance managers of captive insurance companies, insurance agency, claims adjuster or other person that is regulated and supervised by any of the Authorities;

"Jurisdiction" means the country, state or other territory, as the case may be, in which any of the Authorities have legal authority, power and/or jurisdiction by law;

"Laws, Regulations and Rules" mean the provisions of the laws or the regulations and requirements promulgated thereunder, of the jurisdiction of the Authorities on the operations of Insurance Companies or Insurance Intermediaries;

"Memorandum of Understanding" or "Memorandum" means the arrangements for both mutual co-operation and consultation and exchange of information among the Authorities;

"Person" means a natural person, a corporation whether aggregate or sole, an unincorporated body of persons or a trust;

"Regulated Entities" means Insurance Companies and Insurance Intermediaries that are regulated by the Authorities;

"Requested Authority" means the Authority to whom a request is made under this Memorandum;

"Requesting Authority" means an Authority making a request under this Memorandum; and

"Secretariat" means the Secretariat of the Caribbean Association of Insurance Regulators.

2. INTENTION

- 2.1 This Memorandum sets forth a statement of intent of the Authorities to establish a framework to facilitate the exchange of information among the Authorities and to enforce or secure compliance with any Laws, Regulations or Rules relating to the functions and duties of the Authorities in their respective Jurisdictions.
- 2.2 The Authorities intend to provide each other with assistance under this Memorandum to the full extent permitted by the Laws, Regulations and Rules of their respective Jurisdictions.
- 2.3 The Authorities intend either through their own initiatives or by request, to share relevant information including but not limited to financial

information, corporate structure, administration, quality of organization and systems, quality of management and any other information that may be relevant to the adequate supervision of Regulated Entities. The Authorities will seek to collaborate with international and regional regulatory bodies in order to effectively regulate cross-border operations of financial conglomerates that may pose systemic risks to financial sector in member territories.

- 2.4 This Memorandum will serve to promote the integrity, efficiency and financial soundness of Regulated Entities by improving the effective regulation and enhancing the supervision of cross-border transactions. This would ultimately serve the principal objective of protecting policyholders' interests.
- 2.5 The Authorities intend, where legal authorization is lacking, to actively pursue all avenues towards obtaining, by law, all the necessary powers for the effective achievement of the objectives of this Memorandum.
- 2.6 The provisions of this Memorandum do not lead to the right of any Person, directly or indirectly, to obtain, suppress or exclude any information, or to challenge the execution of a request for assistance under this Memorandum.
- 2.7 The Authorities will use reasonable effort to provide each other, as permitted by the Laws, Regulations and Rules, with any information they discover that relates to the safety and soundness of the Regulated entities.

3. SCOPE AND OBJECTIVE

3.1 Through the mechanism set up by this Memorandum, the Authorities agree to formally promote mutual assistance and exchange of information regarding the supervision of Regulated Entities to enable the Authorities to perform their respective duties and functions effectively according to the Laws, Regulations and Rules of their respective Jurisdictions.

3.2 The scope of this Memorandum includes:

- (a) Providing mutual assistance in the enforcement of the Laws, Regulations and Rules relating to Regulated Entities subject to regulation by the Authorities in their respective Jurisdictions;
- (b) Ascertaining whether senior personnel and other individuals who may impact the strategic direction or management of Regulated Entities are fit and proper persons for the conduct of the business of the Regulated Entities;
- (c) Cooperating in the harmonization of the Laws, Regulations and Rules used by the Authorities in the conduct of their functions;
- (d) Cooperating in the identification of financial criminal activities in and by Regulated Entities and financial transactions including money laundering, and all other violations of laws as it relate to insurance business;
- (e) Cooperating in identifying Persons who beneficially own or control corporations / unincorporated bodies;
- (f) Encouraging and supporting insurance education for the Authorities;
- (g) Any regulatory matters agreed upon among the Authorities from time to time.

4. REQUESTS FOR ASSISTANCE OR INFORMATION

- 4.1 This Memorandum does not affect the ability of the Authorities to obtain information from Persons on a voluntary basis, provided that the Authorities observe procedures in the Jurisdiction of each Authority for the obtaining of such information.
- 4.2 A Requesting Authority will make requests for assistance or information in writing through an original signed document addressed to the Requested Authority's contact person listed in **Appendix A**.
- 4.3 The request will include:
- (a) A general description of the factual circumstances surrounding the request and the Regulated Entity concerned, the subject matter of the request, and the purpose for which the assistance or information is sought;
 - (b) A description of the assistance, documents or information sought by the Requesting Authority;
 - (c) Any information in the possession of the Requesting Authority that might assist the Requested Authority in identifying the Persons, or entities believed by the Requesting Authority to possess the information sought, or the places where the Requested Authority may obtain such information requested;
 - (d) The legal provisions concerning the matter that is the subject matter of the request and the relevance of the requested assistance or information to the specified Laws, Regulations or Rules;
 - (e) Whether any other authority, governmental or non-governmental is cooperating with the Requesting Authority or seeking information from the confidential files of the Requesting Authority and to whom onward disclosure of information is likely to be necessary;

- (f) An indication of any special precautions that should be taken in collecting the information due to investigatory considerations, including the sensitivity of the information; and
 - (g) The Laws, Regulations and Rules that may have been violated and that relate to the subject matter of the request.
- 4.4 The Authorities should advise each other of any changes to the relevant contact person listed in **Appendix A** as soon as reasonably practicable.
- 4.5 In urgent circumstances, the Requested Authority will accept a request for assistance by electronic mail or facsimile. Such urgent communications must be confirmed in writing within seven (7) days by the Requesting Authority.

5. EXECUTION OF REQUESTS

- 5.1 Where the Requested Authority is satisfied in accordance with this Memorandum and the Laws, Regulations and Rules governing the Requesting and Requested Authority that the assistance or information should be given, the Requested Authority will provide information held in its files to the Requesting Authority or provide the assistance requested within such timeframe as agreed by the Requested and Requesting Authority or as soon as reasonably possible.
- 5.2 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 terms of this Memorandum.
- 5.3 The response to an urgent request for assistance or information will be expedited, to the extent possible, by telephone, electronic mail or facsimile. The Requested Authority must confirm such urgent

communication through an original signed document addressed to the Requesting Authority's contact person within seven (7) days.

6. VOLUNTARY EXCHANGE OF INFORMATION

6.1 To the extent permitted by the Laws, Regulations and Rules of its Jurisdiction where one Authority has information that will assist another Authority to perform its regulatory functions, the former may provide such information, or arrange for such information to be provided fully and freely, even though the other Authority has made no request. The terms and conditions of this Memorandum will apply if the Authority providing the information specifies that it is providing the information under this Memorandum.

7. PERMISSIBLE USES OF INFORMATION

- 7.1 Any assistance or information provided under this Memorandum shall be used by the Requesting Authority only for the purpose of enabling the Requesting Authority to exercise its regulatory functions, as specified in the request including but not limited to, conducting a civil or administrative enforcement procedure, assisting in a criminal prosecution or conducting any investigation for any general charge applicable to the violation of the provision specified in the request where such general charge pertains to Laws, Regulations and Rules administered by the Requesting Authority. This may include enforcement proceedings which are public.
- 7.2 Subject to Clause 9.5, the Requesting Authority may not use information furnished for any purpose other than that identified in Clause 4.3 (a), without the written consent of the Requested Authority.

- 7.3 If the Requesting Authority wants to use the information obtained for any purpose other than that stated in Clause 7.1 and has so advised the Requested Authority pursuant to Clause 4.3 (a), the Requesting Authority must notify the Requested Authority of its intention and the Requested Authority shall consent in writing to such use prior to the information being used by the Requesting Authority for such other purpose.
- 7.4 Where the Requesting Authority believes that sharing confidential information with a third party is necessary, it must promptly inform the Requested Authority of the third party's interest in this information and the Requested Authority shall consent in writing to the information being shared with or used by the third party prior to the information being used by the Requesting Authority for its purposes under Clause 4.3 (a) or 7.2. For the purposes of this Memorandum, confidential information includes but is not limited to matters such as the identity, assets, liabilities, transactions or records of Regulated Entities or their affiliates or information regarding a policyholder or other person dealing with a Regulated Entity.
- 7.5 In the event that the Requested Authority opposes such use as referred to at Clause 7.3 and Clause 7.4 the Requested and Requesting Authorities may consult to determine the appropriate terms under which the information may be so used. Subject to Clauses 9.3 and 9.5 at all times, it is the sole discretion of the Requested Authority whether or not to disclose the information referred to in Clause 7.4.

8. UNDERTAKING OF INSPECTION VISITS

- 8.1 An Authority may make a request to undertake on-site inspection visits to Regulated Entities in the Jurisdiction of the Requested Authority (either directly or through delegated third parties), where relevant and

necessary to fulfill its legal obligations as the supervisor of the Regulated Entity. The Requesting Authority shall, unless there are exceptional circumstances, give at least thirty (30) days written notice to the Requested Authority of the time and scope of the on-site inspection, and shall provide the Requested Authority with a list of names of the individuals who will conduct the on-site inspection (the "Inspection Team").

- 8.2 The Requested Authority will not prevent the Requesting Authority from carrying out on-site inspections, subject to the requirements and limitations of the Requested Authority's Jurisdiction. The Requested Authority has the right to participate in any such on-site inspection.
- 8.3 Prior to the commencement of any on-site inspection, all members of the Inspection Team will be required to give an undertaking to comply with the confidentiality provisions of the legislation in the Jurisdiction of the Requested Authority.
- 8.4 Prior to the commencement of an on-site inspection, the Requesting Authority will discuss the scope of the on-site inspection, and any other matters of interest to the Authorities, at the Requested Authority's office, or, as prior agreed, by conference call prior to the on-site inspection dates.
- 8.5 The findings of an on-site inspection under this clause shall be shared and considered by each Authority who will inform the other promptly of any regulatory action that it intends to take as a result of the inspection.
- 8.6 Where the Laws, Regulations or Rules of the Jurisdiction of an Authority prevent the Requesting Authority from carrying out on-site inspections the Requesting Authority may identify the issues requiring examination in

writing to the Requested Authority and the Requested Authority shall expand the scope of its next on-site inspection to include the identified issues.

- 8.7 Information obtained by the Requested Authority that relates to the issues identified by the Requesting Authority in Clause 8.6 during the Requested Authority's on-site inspection shall be shared with the Requesting Authority within thirty (30) days of the end of the on-site inspection conducted by the Requested Authority.

9. CONFIDENTIALITY

- 9.1 The Authorities will, to the full extent permitted by their Laws, Regulations and Rules, keep confidential:
- (a) Any request for assistance or information pursuant to this Memorandum;
 - (b) Any information received or provided pursuant to this Memorandum; and
 - (c) Any matter arising during the operation of this Memorandum, including consultations and information exchanged voluntarily.
- 9.2 The Requesting Authority shall not disclose the assistance or information obtained pursuant to this Memorandum to third parties without the prior written consent of the Requested Authority.
- 9.3 An Authority may provide any information received from a Requested Authority to another financial regulatory agency or body within its Jurisdiction upon the prior written consent of the Requested Authority. Such approval will not normally be withheld if:

- (a) The purpose of sharing such information to such an agency or body falls within the scope of this Memorandum and are for purposes related to the regulation by that financial agency or body; and
 - (b) A prior undertaking has been obtained from the financial regulatory agency or body in its Jurisdiction by the Requested Authority that it will and is, legally obliged to maintain the confidentiality of the information.
- 9.4 The confidential treatment of assistance and information by Authorities will continue when any Authority gives notice of its intention to cease co-operation under this Memorandum. The Authorities understand that the Laws, Regulations and Rules of their respective Jurisdictions, place limitations on use and disclosure of confidential information obtained pursuant to this Memorandum.
- 9.5 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 Memorandum, that Authority should promptly notify the Requested Authority, indicating what information it is compelled to release and the circumstances surrounding its release.
- 9.6 The Requesting Authority shall restrict access to confidential information received to those persons in the employment of the Requesting Authority on whom an official obligation to secrecy is imposed.

10. RIGHTS OF REQUESTED AUTHORITY

- 10.1 The Requested Authority may deny requests for assistance under this Memorandum:

- (a) Where the request would require the Requested Authority to act in a way that would violate the Laws, Rules and Regulations of the Jurisdiction of the Requested Authority;
 - (b) Where the request is not in accordance with the provisions of this Memorandum;
 - (c) Where corresponding assistance would not be given in the country of or territory of the Requesting Authority;
 - (d) Where the request involves a breach of law or other requirement which has no close parallel in the country or territory of the Requested Authority or involves the assertion of a jurisdiction not recognised in the country or territory of the Requested Authority; or
 - (e) On the grounds of public interest in the Jurisdiction of the Requested Authority.
- 10.2 Where the Requested Authority denies a request for assistance, or where assistance is not available under the law of the Jurisdiction of the Requested Authority, the Requested Authority will provide the reasons why it is not granting the assistance. The Authorities will then consult pursuant to Clause 11.
- 10.3 The Authorities recognise that this Memorandum does not limit or enhance their respective powers to investigate or gather information or take measures otherwise than as provided in this Memorandum or to obtain information, whether or not concerning a request under the Memorandum.

11. CONSULTATION

11.1 The Authorities will consult with each other on a regular basis in an effort to improve the operation of this Memorandum and resolve any matters that may arise including but not limited to:

- (a) A change in market or business conditions or in Laws, Regulations or Rules, or any other difficulty arising which makes it necessary to amend or extend this Memorandum;
- (b) Matters of mutual interest to enhance co-operation and to protect policyholders by ensuring the stability, efficiency, and integrity of the insurance industry in their respective Jurisdictions;
- (c) The co-ordination of the supervision of Regulated Entities; and
- (d) The administration of their respective Laws, Regulations and Rules.

The purpose of such consultation is to assist in the development of mutually agreeable approaches for strengthening the insurance industry of their respective Jurisdictions whilst avoiding, whenever possible, conflicts that may arise from the application of differing regulatory practices.

11.2 The Authorities will consider the need for additional measures for the exchange of supervisory and surveillance information in the administration of Laws, Regulations and Rules concerning Regulated Entities in their respective Jurisdictions, on an ongoing basis. To this end, the Authorities will inform one another of the adoption of domestic measures that may affect their respective authority to provide assistance under this Memorandum.

11.3 The Authorities may take practical measures as may be necessary to facilitate the implementation of this Memorandum. As such, the Authorities by consensus, may waive, amend or alter any of the terms of this Memorandum.

12. COSTS OF INVESTIGATION

12.1 Where substantial costs are incurred in responding to a request for assistance under this Memorandum, the Requested Authority may require the Requesting Authority to contribute to its cost in an amount agreed upon by the Authorities involved.

13. TERMINATION OF MEMORANDUM

13.1 An Authority may terminate its participation in this Memorandum at any time by giving at least 30 days prior written notice to the other Authorities.

13.2 A termination by an Authority will not affect the other Authorities as signatories to this Memorandum.

13.3 Termination of any signatory authority under this Memorandum will not in any way affect the rights or obligations of any signatory authority with respect to the confidential information previously received or provided under this Memorandum or any privileges associated with such information.

13.4 This Memorandum will continue to have effect with respect to all requests for assistance made by or to that Authority before the effective date of notification, until the Requesting Authority terminates the matter for which it requested assistance.

13.5 The Secretariat, as directed by the Executive Council will maintain a list of current signatories, which will be updated in accordance with any termination by expulsion pursuant to Section 16.6 of this Memorandum, and which will be provided annually at the annual general meeting of the Caribbean Association of Insurance Regulators.

- 13.6 Any decision involving an amendment to the Memorandum requires a unanimous recommendation from the signatories to the Memorandum.

14. REVIEW AND AMENDMENT

- 14.1 No waiver, amendment or alteration to this Memorandum shall be effective unless made in writing and executed by all signatories. The Authorities will periodically review the functioning and effectiveness of cooperation and information exchange under this Memorandum.

15. EXECUTION OF MEMORANDUM

- 15.1 This Memorandum shall govern the exchange of information among the Authorities that are signatories to it as of the date of execution by the respective Authority.

16. DISPUTE RESOLUTION

- 16.1 Where disputes arise out of the interpretation, operation and implementation of this Memorandum, the Authorities will make every effort to have such disputes settled amicably through consultation or negotiation between the Authorities.
- 16.2 In the absence of an amicable resolution, any differences may be referred to mediation at the request of the Authority affected by the dispute and any signed resolution arrived at in Mediation shall be binding upon the Authorities.

- 16.3 The Mediator shall be chosen by mutual agreement of the Authorities in the dispute. In the event that the Authorities cannot agree to a Mediator within twenty one (21) days, then the Executive Council shall appoint a Mediator. The cost of Mediation shall be equally borne by the Authorities.
- 16.4 The mediation agreement shall contain the timeframe for compliance with the agreement.
- 16.5 Where on the expiration of the timeframe for compliance referred to in 16.4 an Authority has failed to comply with the mediation agreement, the other Authority to the dispute may by instrument in writing terminate its obligations under this Memorandum with respect to the non-complying Authority.
- 16.6 Where two-thirds of the signatories to this Agreement have terminated their obligations under this Memorandum with respect to another Authority as a result of any dispute under this Memorandum, that Authority may be expelled from further participation in this Memorandum. Those Authorities, who have terminated their obligations with respect to another Authority, shall notify the Executive Council of their action for the purposes of Clause 13.5 of this Memorandum.

17. ACCESSION

- 17.1 After entry into force of this Memorandum, a regulatory authority that is not a party hereto, may, if the Authorities agree in writing, accede to this Memorandum by preparing, signing and depositing an instrument of accession with the Secretariat.
- 17.2 An authority that accedes under Clause 17.1 shall be under the same obligations as the authorities that are parties to this Memorandum.

APPENDIX A

List of contact persons of Regional Regulatory Authorities

Anguilla

Director
Anguilla Financial Services Commission
MAICO Building, P. O. Box 1575, The Valley
Tel: 1 264 497-5881
Fax: 1 264 497 5872
Email: info@afsc.ai

Antigua and Barbuda

Chief Executive Officer
Financial Services Regulatory Commission of Antigua & Barbuda
Royal Palm Place
Friars Hill Road
St. John's, Antigua
Tel: 1 268 481-3300-2
Fax: 1 268 481-3305/1182
Email: info@fsrc.gov.ag

Barbados

Chief Executive Officer
Financial Services Commission of Barbados
Suites 301 & 302, Bldg. #4 Harbour Industrial Park
Bridgetown, St. Michael, Barbados
Tel: 1 246 421-2142
Fax: 1 246 421-2146
Email: info@fsc.gov.bb

Belize

Supervisor of Insurance and Private Pensions
Office of the Supervisor of Insurance and Private Pensions
Ministry of Finance, Government of Belize
Tel: 1 501 822-2362/2152/58/69
Fax: 1 501 822-2886
Email: info@mof.gov.bz

British Virgin Islands

Managing Director/CEO
British Virgin Islands Financial Services Commission
Pasea Estate, P. O. Box 418

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Financial Services Unit of the Commonwealth of Dominica
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Grenada

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Guyana

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Haiti

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Kingstown, St. Vincent
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