

**MULTILATERAL MEMORANDUM OF
UNDERSTANDING**

Between

The Regional Regulatory Authorities

For the

Exchange of Information

And

Co-operation and Consultation

BARBADOS

November 2003

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This Multilateral Memorandum of Understanding (hereinafter “Memorandum”) is entered into between the Regional Regulatory Authorities (hereinafter “Authorities”) who are signatories to this Memorandum.

Whereas the Signatories:

Recognise the need for mutual cooperation between Authorities in the carrying out of their regulatory and supervisory functions under the relevant Laws, Regulations and Rules in their respective countries.

Whereas the Signatories:

Acknowledge the importance of compliance with relevant international standards established by international standard setting bodies such as the Basel Committee on Banking Supervision.

Whereas the Signatories:

Acknowledge further that the Laws, Regulations and Rules of each jurisdiction are designed to protect the legitimate interest of bank customers and may limit the transmission of information among Authorities and recognize that this Memorandum cannot override or modify such laws.

And Whereas:

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

It is hereby agreed between the Signatories as follows:-

1. DEFINITIONS

For the purpose of this Memorandum:

“Financial Institution” means a banking institution regulated and supervised by any of the Authorities;

“Home Jurisdiction” means the jurisdiction responsible for the licensing of a Financial Institution, which has established a branch, subsidiary or representative office in another jurisdiction, (the “Host Jurisdiction”);

“Home Supervisor” means the supervisor charged with the responsibility of effectively supervising the Financial Institution on a consolidated basis;

“Host Supervisor” means the supervisor charged with the responsibility of effectively supervising the Financial Institution on a non-consolidated basis;

“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 Financial Institutions;

“Memorandum of Understanding” means the arrangements for both mutual co-operation and exchange of information among the Authorities;

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

“Requested Authority” means the Authority to whom a request is made pursuant to this Memorandum; and

“Requesting Authority” means an Authority, making a request under this Memorandum .

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 between 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 one another with assistance under this Memorandum of Understanding 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 organisation and systems, the quality of management and any other information that may be relevant to the adequate supervision of Financial Institutions. The Authorities will seek to identify group operations and share any information that can facilitate adjustments to consolidated financial statements or present a risk to the operations of a regulated entity.
- 2.4 This Memorandum will serve to promote the integrity, efficiency and financial soundness of Financial Institutions by improving the effective regulation and enhancing the supervision of cross-border transactions.
- 2.5 This Memorandum does not create any binding legal obligations upon the Authorities.
- 2.6 The Authorities intend, where legal authorisation is lacking, to actively pursue all avenues towards obtaining, by law, all the necessary powers for the effective achievement of the objectives of the Memorandum.

- 2.7 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.
- 2.8 The Authorities will use reasonable effort to provide each other, as permitted by the Laws, Regulations and Rules, with any information that they discover that relate to the safety and soundness of the Financial Institution.

3. SCOPE

- 3.1 Through the mechanism set up by this Memorandum, the Authorities agree to promote mutual assistance and exchange of information 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) Enforcement of the Laws, Regulations and Rules relating to Financial Institutions subject to regulation by the Authorities in their respective jurisdictions.
 - (b) Ascertaining that senior personnel and other individuals who may impact the strategic direction of the Financial Institution are fit and proper persons for the conduct of the business of the Financial Institution.
 - (c) Any regulatory matters agreed upon between 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 description of both 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, bodies or entities believed by the Requesting Authority to possess the information sought, or the places where the Requested Authority may obtain such information;
- (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 or regulatory requirements.
- (e) The names of any third parties to whom the Requesting Authority is bound to or expects to release the requested information.

4.4 All Authorities should advise the other parties to this Memorandum of any change to the relevant contact person as soon as is reasonably practicable.

4.5 In urgent circumstances, the Requested Authority will accept a request for Assistance or information affected by means of communication other than that required by Clause 4.2 above. Such urgent communication must be confirmed within five (5) business days through an original signed document addressed to the Requested Authority's contact person.

5. EXECUTION OF REQUESTS

5.1 Where the Requested Authority is satisfied in accordance with this Memorandum and the laws governing the Requesting Authority that the assistance or information should be given, the Requested Authority will provide information held in the files of the Requested Authority.

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 or facsimile. The Requested Authority must confirm such urgent communication through an original signed document addressed to the Requesting Authority's contact person within five business days.

6. UNSOLICITED INFORMATION

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, to the extent permitted by the laws of its jurisdiction even though the other Authority has made no request. The terms and conditions of this Memorandum will apply if the providing Authority specifies that it is passing 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.
- 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 paragraph 7.1 and has so advised the Requested Authority pursuant to paragraph 4.3(a), the Requesting Authority must notify the Requested Authority of its intention and the Requested Authority shall, if it deems fit, 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 inform the Requested Authority of the third party's interest in this information and the Requested Authority shall, if it deems fit, 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 accounts of a financial institution.
- 7.5 In the event that the Requested Authority opposes such use as referred to at paragraphs 7.3 and 7.4 the Requested and Requesting Authorities may consult to determine the appropriate terms under which the information maybe so used.

8. UNDERTAKING OF INSPECTION VISITS

- 8.1 An Authority may make a request to undertake inspection visits to Financial Institutions 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 a Financial Institution. The Requesting Authority shall, unless there are exceptional circumstances, give at least 30 days notice to the Requested Authority of the time, and scope of the inspection and shall provide the Requested Authority with a list of names of the individuals who will conduct the inspection (the "Inspection Team").
- 8.2 The Requested Authority will not prevent the Requesting Authority from carrying out on-site inspections for the purposes of consolidated bank supervision, subject to the requirements and limitations of the Requested

Authority's jurisdiction. The Requested Authority has the right to participate in any such 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 inspection, and any other matters of interest to the Authorities, at the Requested Authority's office.
- 8.5 The Requesting Authority will discuss the inspection findings with the Requested Authority and will inform the Requested Authority promptly of any regulatory action that it intends to take as a result of the inspection. The Requested Authority will also advise the Requesting Authority of any regulatory action it intends to take against the Financial Institution under its supervision arising from the inspection.

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 unsolicited information.
- 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 services regulatory body within its jurisdiction upon the prior written consent of the Requested Authority. Such approval will not normally be with-held if:-
 - (a) The purpose of passing on such information to such an agency or body falls within the scope of this Memorandum of Understanding; and
 - (b) A prior undertaking has been obtained from the recipient 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 either 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 non-public 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.

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 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 involve the assertion of a jurisdiction not recognised in the country or territory of the Requested Authority; or
 - (e) On the grounds of public interest.
- 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 they intend nothing in the Memorandum to either limit or enhance the powers of the Authorities under the laws of their respective jurisdictions to investigate or gather information or to take measures otherwise than as provided in the Memorandum 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 the 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 the Memorandum;
 - (b) Matters of mutual interest to enhance co-operation and to protect investors and depositors by ensuring the stability, efficiency, and integrity of the financial services industry in their respective jurisdictions,
 - (c) The co-ordination of the supervision of Financial Institutions; and
 - (d) The administration of their respective Laws, Regulations and Rules.

The purpose of such consultations is to assist in the development of mutually agreeable approaches for strengthening the financial services industries 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 Financial Institutions 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 the Memorandum. As such, the Authorities by consensus, may waive, amend or alter any of the terms of the Memorandum.

12. COSTS OF INVESTIGATION

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 THE 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 each other Authority.
- 13.2 A request for termination will not affect the other Authorities as signatories to the Memorandum.
- 13.3 This Memorandum will continue in effect until the expiration of 30 days after any Authority gives written notice to the other Authorities of its intention to terminate its cooperation under the Memorandum. If any Authority gives such notice, this Memorandum will continue to have effect with respect to all requests for assistance that the Authority made, or information provided, before the effective date of notification until the Requesting Authority terminates the matter for which it requested assistance.

14. AMENDMENT

No waiver, amendment or alteration to the Memorandum shall be effective unless made in writing and executed by the Authorities.

15. EXECUTION OF MEMORANDUM

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

IN WITNESS whereof each of the Authorities has executed the Memorandum by their duly authorised Signatories on the date set out below.

SIGNED this day of 2004

***FOR AND ON BEHALF OF
THE CENTRAL BANK OF BARBADOS***

.....

SIGNED this day of 2004

***FOR AND ON BEHALF OF
THE CENTRAL BANK OF BAHAMAS***

.....

SIGNED this day of 2004

***FOR AND ON BEHALF OF
THE CENTRAL BANK OF BELIZE***

.....

SIGNED this day of 2004

***FOR AND ON BEHALF OF
THE EASTERN CARIBBEAN CENTRAL BANK***

.....

SIGNED this day of 2004

***FOR AND ON BEHALF OF
THE CAYMAN ISLANDS MONETARY AUTHORITY***

.....

SIGNED this 10th day of June 2004

***FOR AND ON BEHALF OF
THE FINANCIAL SERVICES COMMISSION, BVI***

.....
**Robert Mathavious
Managing Director/CEO**

**The Official Seal of the Financial Services Commission is affixed hereto this 10th
Day of June 2004.**

**Kenneth Baker
Director, Banking and Fiduciary Services Division**

SIGNED this day of 2004

***FOR AND ON BEHALF OF
THE BANK OF JAMAICA***

.....

SIGNED this day of 2004

***FOR AND ON BEHALF OF
THE FINANCIAL SERVICES COMMISSION,
TURKS & CAICOS***

.....

SIGNED this day of 2004

***FOR AND ON BEHALF OF
BANK VAN DE NEDERLANDSE ANTILLEN
("Central Bank")***

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APPENDIX A

List of contact persons of the Regional Regulatory Authorities

BRITISH VIRGIN ISLANDS

Financial Services Commission

PO Box 418

Pasea Estate

Road Town, Tortola

British Virgin Islands

Website: www.bvifsc.vg

Contact: Mr. Robert A. Mathavious
Title: Managing Director/CEO
Phone: 1 284 494 1324
Fax: 1 284 494 5016
E-mail: commissioner@bvifsc.vg
Home Phone: 1 284 494 2391

Alternate: Mr. Kenneth B. Baker
Title: Director, Banking and Fiduciary Services
Phone: 1 284 494 1324
Fax: 1 284 494 5016
E-mail: bakerk@bvifsc.vg
Home Phone: 1 284 495 9525