

MoU concerning consultation, cooperation and the exchange of information related to the supervision of AIFMD entities

SECTION I – PARTIES, OBJECTIVES AND DEFINITIONS

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Monetary Authority appointed under section 5A of the Exchange Fund Ordinance (Chapter 66 of the Laws of Hong Kong) ("HKMA") (Hong Kong SAR) on one side, and the Autorité des marchés financiers (France), on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision of depositaries of alternative investment funds ("AIFs") where a manager of a fund operates on a cross-border basis in the jurisdictions of the signatories of this MoU and to ensure compliance with, and enforcement of, the AIFMD and its implementing measures and the relevant legislation of Hong Kong.

The Authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means a signatory to this MoU or any successor.
- b) "Requested Authority" means the Authority to whom a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.
- d) "EU competent authority" means any authority appointed in an European Union or an European Economic Area Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, Delegates, Depositaries and, where applicable, Covered Funds.
- e) "AIFMD" means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers, amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) "Manager" means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or in accordance with the relevant legislation of Hong Kong.
- g) "Covered Fund" means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS, i.e., an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- h) "Delegate" means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management in accordance with Article 20 of the AIFMD or in accordance with the Hong Kong Securities and Futures Ordinance.

- i) “Depository” means an entity appointed to perform the depository functions of a Covered Fund in accordance with Article 21 of the AIFMD..
- j) “Operate on a cross-border basis” means the following situations: when a) EU Managers manage non-EU Covered Funds, b) EU Managers market non-EU Covered Funds in an EU Member State, c) non-EU Managers market EU and/ or non-EU Covered Funds in an EU Member State, d) EU Managers marketing non-EU Covered Funds in the EU with a passport, e) non-EU Managers managing EU Covered Funds in the EU, f) non-EU Managers marketing EU Covered Funds in the EU with a passport, g) non-EU Managers marketing non-EU Covered Funds in the EU with a passport, and h) EU Managers marketing Covered Funds in Hong Kong. Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers Delegates and Depositories as defined in letters h) and i) of this Article.
- k) “Covered Entity” means a Manager, Covered Fund where applicable, and, insofar as there is a link to the Manager and the Covered Fund, Delegates and Depositories as defined in letters h) and i) of this Article, including the persons employed by such entities.
- l) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- m) “Governmental Entity” means the Ministry of Finance, the Central Bank and any other national prudential authority in the jurisdiction of the relevant Authority.
- n) “Local Authority” means the Authority in whose jurisdiction a Covered Entity operates.
- o) “Emergency Situation” means the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, AIF investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU).
- p) “Banking Ordinance” means the Banking Ordinance (Chapter 155 of the Laws of Hong Kong).
- q) “Laws and Regulations” means the AIFMD and its implementation measures or, where the HKMA is the Authority concerned, the Banking Ordinance.

SECTION II – COOPERATION ON ON-GOING SUPERVISION

Article 2. General provisions

- 1) This MOU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws and requirements that govern the Authorities. The assistance provided in accordance with this MoU refers exclusively to the cross-border activities of the depositaries of AIFs, excluding any other activities that are not governed by the AIFMD or the relevant legislation of Hong Kong. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support

such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.

- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws. This MoU does not confer upon any person the right or ability directly or indirectly to obtain, suppress, or exclude any information or to challenge the execution of a request for assistance under this MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information ("IOSCO MMoU") and the International Association of Insurance Supervisors Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information ("IAIS MMoU"), to which some of the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities, insurance and deposit-taking matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate its laws and regulations;
 - b)
 - c) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - d) On the grounds of the national public interest or essential national interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, inter alia, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix A.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest. The Authorities further

recognize that information sharing, notifications and cooperation in respect of depositaries of AIFs will be limited to issues that are directly related to the depositaries' cross-border activities.

- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application of a Covered Entity for authorization, registration or exemption from registration in another jurisdiction;
 - b) The on-going oversight of a Covered Entity insofar as the oversight relates directly to the Covered Entity's cross-border activities;
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction insofar as the approvals and actions are directly related to the Covered Entity's cross-border activities; or
 - d) Enforcement actions taken against a Covered Entity insofar as the actions are directly related to the Covered Entity's cross-border activities.
- 3) *Notification.* Each Authority will inform the other relevant Authority as soon as practicable of
 - a) Any known material event that could adversely impact a Covered Entity's cross border activities; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity's cross border activities
- 4) *Exchange of Information.* To supplement informal consultations and where specific supervisory concerns about a Covered Entity arise, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to enable the Requesting Authority to assess compliance with the Laws and Regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would permit the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the national law of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal control procedures insofar as the information relates directly to the Covered Entity's cross-border activities;

- d) Relevant regulatory information and filings that a Covered Entity has submitted to the Requested Authority including, for example: interim and annual financial statements and early warning notices insofar as the regulatory information and filings relate directly to the Covered Entity's cross-border activities; and
- e) Excerpts from regulatory reports prepared by the Requested Authority, including for example: pertinent portions of examination reports, findings, or information drawn from such reports regarding Covered Entities insofar as the information relates directly to the Covered Entities' cross-border activities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The on-site visit should be limited to the examination of the activities that the Covered Entities perform as depositaries of the AIFs. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) When establishing the scope of any proposed visit, the Authority seeking to conduct the visit will give due and full consideration to the supervisory activities of the other Authority and any information that was made available or is capable of being made available by that Authority.
 - c) The Authorities will assist each other in interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities or any other relevant person.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - a) The information sought by the Requesting Authority, including specific questions to be asked and an indication of any sensitivity about the request;
 - b) A concise description of the facts underlying the request and the supervisory purpose for which the information is sought, including the applicable laws and regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 2) In the event of an Emergency Situation, the Authorities will endeavour to notify each other of the Emergency Situation and communicate information to the other as would be appropriate in the particular circumstances, taking into account all relevant factors, including the status of efforts to address the Emergency Situation. During Emergency Situations, requests for information may be made in any form, including orally, provided

such communication is confirmed in writing as promptly as possible following such notification.

Article 6. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the Laws and Regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.
- 2) This MoU is intended to complement, but should not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities, insurance and deposit-taking matters, including the IOSCO MMoU and the IAIS MMoU. The Authorities recognize that while information is not to be gathered under this MoU for law enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of Section III of this MoU.

Article 7. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with the MoU, including permissible uses of information under Article 6, each Authority will keep confidential to the extent permitted by its laws and regulations information shared under this MoU, requests made under this MoU, the contents of such requests, and any other matters arising under this MoU. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been furnished under this MoU. Prior to compliance with the demand, the Requesting Authority intends to assert all appropriate legal exemptions or privileges with respect to such information as may be available.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraph 2, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any non-signatory to this MoU. If consent is not obtained from the Requested Authority, the Authorities will discuss the reasons for withholding approval of such use and the circumstances, if any, under which the intended use by the Requesting Authority might be allowed.
- 5) The Authorities intend that the sharing or disclosure of non-public information, including but not limited to deliberative and consultative materials, pursuant to the terms of this MoU, will not constitute a waiver of privilege or confidentiality of such information.

Article 8. Special rules on onward sharing of information in the EU internal market.

- 1) Article 7 paragraph 4 does not apply in all cases where the EU competent authorities signatories to this MoU, are required to share information with other EU competent authorities signatories to this MoU, and the European Systemic Risk Board (“ESRB”) and European Securities and Markets Authority (“ESMA”) under the AIFMD. In particular, Article 7 paragraph 4 does not apply in the following circumstances:
 - a. In accordance with Article 25(2) of the AIFMD, an EU competent authority signatory to this MoU may need to share information received from the HKMA with other EU competent authorities signatories to this MoU where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a credit institution or other systemically relevant institutions in other EU Member States.
 - b. In accordance with Article 50(4) of the AIFMD, the EU competent authority signatory to this MoU of the Member State of reference of a non-EU Manager¹ shall forward the information received from the HKMA in relation to that non-EU Manager to the competent authority signatory to this MoU of the host EU Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c. In accordance with Article 53 of the AIFMD, an EU competent authority signatory to this MoU shall communicate information to other EU competent authorities signatories to this MoU, the ESRB or ESMA, where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 2) In the cases mentioned in paragraph 1, the following conditions would apply:
 - a. In accordance with Article 47 (3) of the AIFMD, all the information exchanged between the EU competent authorities signatories to this MoU, the ESRB and ESMA shall be considered confidential, except where the Requested Authority states at the time of communication that such information may be disclosed or where such disclosure is necessary for legal proceedings.
 - b. The EU competent authorities signatories to this MoU, ESMA and the ESRB shall only use the information for the purposes envisaged in the AIFMD and in accordance with the founding regulations of ESMA and the ESRB.
 - c. The EU competent authority signatory to this MoU, must notify the HKMA of the identity of the EU authorities signatories to this MoU, with which the information is shared in accordance with this Article, including ESMA and the ESRB. Where possible, the notification should take place before onward sharing the information. Where this is not possible, the notification should take place within a week after it is shared.
 - d. The EU competent authority signatory to this MoU must obtain the prior consent of the HKMA before disclosing any information provided by the HKMA to any third party other than those referred to in paragraph 1.

¹ The Member State of reference is the EU Member State in charge of the authorisation of a non-EU Manager in accordance with Article 37 of the AIFMD.

SECTION III – COOPERATION ON ENFORCEMENT MATTERS

Article 9. Mutual assistance and the exchange of information on enforcement matters

- 1) This Section of the Memorandum of Understanding sets forth the Authorities' intent with regard to mutual assistance and the exchange of information for the purpose of enforcing and securing compliance with the AIFMD and the relevant legislation of Hong Kong applicable to the Covered Entities as defined in the MoU.
- 2) The Authorities represent that no domestic secrecy or blocking laws or regulations should prevent the collection or provision of the information set forth in Article 10(2) to the Requesting Authority.
- 3) The provisions of this Section do not authorize or prohibit an Authority from taking measures other than those identified herein to obtain information necessary to ensure enforcement of, or compliance with, the Laws and Regulations.
- 4) The Authorities recognize the importance and desirability of providing mutual assistance and exchanging information for the purpose of enforcing, and securing compliance with, the AIFMD and its implementing measures and the relevant legislation of Hong Kong. A request for assistance may be denied by the Requested Authority:
 - a) where the request would require the Requested Authority to act in a manner that would violate its laws and regulations;
 - b) where a criminal proceeding has already been initiated in the jurisdiction of the Requested Authority based upon the same facts and against the same persons, or the same persons have already been the subject of final punitive sanctions on the same charges by the competent authorities of the jurisdiction of the Requested Authority, unless the Requesting Authority can demonstrate that the relief or sanctions sought in any proceedings initiated by the Requesting Authority would not be of the same nature or duplicative of any relief or sanctions obtained in the jurisdiction of the Requested Authority.
 - c) where the request is not made in accordance with the provisions of this Section; or
 - d) on grounds of public interest or essential national interest.
- 5) Where a request for assistance is denied, or where assistance is not available under its laws and regulations, the Requested Authority will provide the reasons for not granting the assistance and consult pursuant to Article 15.

Article 10. Scope of Assistance

- 1) The Authorities will, within the framework of the provisions of this Section, provide each other with the fullest assistance permissible to secure compliance with the AIFMD, its implementing measures and the relevant legislation of Hong Kong.

- 2) The assistance available under the provisions of this Section includes, without limitation:
- a) providing information and documents held in the files of the Requested Authority regarding the matters set forth in the request for assistance;
 - b) obtaining information and documents regarding the matters set forth in the request for assistance, including:
 - i. contemporaneous records sufficient to reconstruct all securities and derivatives transactions, including records of all funds and assets transferred into and out of bank and brokerage accounts relating to these transactions;
 - ii. records that identify: the beneficial owner and controller, and for each transaction, the account holder; the amount purchased or sold; the time of the transaction; the price of the transaction; and the individual and the bank or broker and brokerage house that handled the transaction; and
 - iii. information identifying persons who beneficially own or control non-natural persons organized in the jurisdiction of the Requested Authority.
 - c) In accordance with Article 12(4), where permissible, taking or compelling a person's statement or testimony under oath regarding the matters set forth in the request for assistance.
 - d) Providing assistance and information in at least the following situations:
 - i. when the Requesting Authority has required a Covered Entity established in the jurisdiction of the Requested Authority to cease any practice that is contrary to the provisions adopted in the implementation of the AIFMD and its implementing measures or the relevant legislation of Hong Kong. In this situation, and at the request of the Requesting Authority, the Requested Authority should provide information that would allow the Requesting Authority to verify the compliance of the request by the Covered Entity;
 - ii. when the Requesting Authority has requested the freezing or the sequestration of assets of a Covered Fund that is established in the jurisdiction of the Requested Authority. In this situation the Requested Authority should either order the freeze or sequestration of the assets of the Covered Fund located in its jurisdiction or inform and assist to the extent possible the Requesting Authority on the legal procedures that may lead to that result;
 - iii. when the Requesting Authority has requested the temporary prohibition of professional activity in relation to a Covered Entity established in the jurisdiction of the Requested Authority. In this situation, and at the request of the Requesting Authority, the Requested Authority should provide information that would allow the Requesting Authority to verify whether the temporary prohibition is being observed by the addressee of the measure;
 - iv. when the Requesting Authority has adopted any type of measure to ensure that Covered Entities established in the jurisdiction of the Requested Authority continue to comply with the requirements of the AIFMD and its implementing measures or of the relevant legislation of Hong Kong. In this situation, and at the request of the Requesting Authority, the

Requested Authority should provide information that would allow the Requesting Authority to verify whether the addressee observes the measure adopted by the Requesting Authority;

- v. when, in the interest of the investors or of the public, the Requesting Authority has required the suspension of the issue, repurchase or redemption of units or shares of Covered Funds established in the jurisdiction of the Requested Authority, at the request of the Requesting Authority, the Requested Authority should provide information that would allow the Requesting Authority to verify that the Covered Fund complies with the request of suspension.
- 3) Assistance will not be denied based on the fact that the type of conduct under investigation would not be a violation of the laws and regulations of the Requested Authority.

Article 11. Requests for Assistance

- 1) Requests for assistance of this Section will be made in writing, in such form as may be agreed by the parties from time to time, and will be addressed to the Requested Authority's contact office listed in Appendix A of this MoU.
- 2) Requests for assistance will include the following:
 - a) a description of the facts underlying the investigation that are the subject of the request, and the purpose for which the assistance is sought;
 - b) a description of the assistance sought by the Requesting Authority and why the information sought will be of assistance;
 - c) any information known to, or in the possession of, the Requesting Authority that might assist the Requested Authority in identifying either the persons believed to possess the information or documents sought or the places where such information may be obtained;
 - d) 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
 - e) the Laws and Regulations that may have been violated and that relate to the subject matter of the request.
- 3) In urgent circumstances, requests for assistance may be effected by telephone or facsimile, provided such communication is confirmed through an original, signed document.

Article 12. Execution of Requests for Assistance

- 1) Information and documents held in the files of the Requested Authority will be provided to the Requesting Authority upon request.

- 2) Upon request, the Requested Authority will seek, or where permissible require, the production of documents identified in Article 10(2)(b) from (i) any person designated by the Requesting Authority, or (ii) any other person who may possess the requested information or documents. Upon request, the Requested Authority will seek to obtain other information relevant to the request.
- 3) Upon request, the Requested Authority will seek responses to questions and/or a statement (or where permissible, testimony under oath) from any person, employed or engaged by a Depositary, involved, directly or indirectly, in the activities that are the subject matter of the request for assistance or who is in possession of information that may assist in the execution of the request.
- 4) Unless otherwise arranged by the Authorities, information and documents requested under the provisions of this Section will be gathered in accordance with the procedures applicable in the jurisdiction of the Requested Authority and by persons designated by the Requested Authority. Where permissible under the laws and regulations of the jurisdiction of the Requested Authority, a representative of the Requesting Authority may be present at the taking of statements and testimony and may provide, to a designated representative of the Requested Authority, specific questions to be asked of any witness.
- 5) In urgent circumstances, the response to requests for assistance may be effected by telephone or facsimile, provided such communication is confirmed through an original, signed document.

Article 13. Permissible Uses of Information

- 1) The Requesting Authority may use non-public information and non-public documents furnished in response to a request for assistance under the provisions of this Section solely for:
 - a) the purposes set forth in the request for assistance, including ensuring compliance with the Laws and Regulations related to the request; and
 - b) a purpose within the general framework of the use stated in the request for assistance, including conducting a civil or administrative enforcement proceeding, 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 a violation of the Laws and Regulations administered by the Requesting Authority. This use may include enforcement proceedings which are public.
- 2) If a Requesting Authority intends to use information furnished under the provisions of this Section for any purpose other than those stated in Paragraph 1 of this Article, it must obtain the consent of the Requested Authority.

Article 14. Confidentiality

- 1) Each Authority will keep confidential requests made under the provision of this Section, the contents of such requests, and any matters arising under the provisions of this Section, including consultations between or among the Authorities, and unsolicited assistance.

After consultation with the Requesting Authority, the Requested Authority may disclose the fact that the Requesting Authority has made the request if such disclosure is required to carry out the request.

- 2) The Requesting Authority will not disclose non-public documents and information received in accordance with the provisions of this Section, except as contemplated by Article 13(1) or in response to a legally enforceable demand. In the event of a legally enforceable demand, the Requesting Authority will notify the Requested Authority prior to complying with the demand, and will assert such appropriate legal exemptions or privileges with respect to such information as may be available. The Requesting Authority will use its best efforts to protect the confidentiality of non-public documents and information received under the provisions of this Section.

Article 15. Consultation Regarding Mutual Assistance and the Exchange of Information

- 1) The Authorities will consult with each other regarding the provisions of this Section about matters of common concern with a view to improving its operation and resolving any issues that may arise. In particular, the Authorities will consult in the event of:
 - a) a significant change in market or business conditions or in legislation where such change is relevant to the operation of the provisions of this Section;
 - b) a demonstrated change in the willingness or ability of an Authority to meet the provisions of this Section; and
 - c) any other circumstance that makes it necessary or appropriate to consult, amend or extend this Section in order to achieve its purposes.
- 2) The Requesting Authority and Requested Authority will consult with one another in matters relating to specific requests made pursuant to this Section (e.g., where a request may be denied, or if it appears that responding to a request will involve a substantial cost). These Authorities will define the terms herein in accordance with the relevant laws of the jurisdiction of the Requesting Authority unless such definition would require the Requested Authority to exceed its legal authority or otherwise be prohibited by the laws applicable in the jurisdiction of the Requested Authority. In such case, the Requesting and Requested Authorities will consult.

Article 16. Unsolicited Assistance

Each Authority will make all reasonable efforts to provide, without prior request, the other Authorities with any information that it considers is likely to be of assistance to those other Authorities in securing compliance with the Laws and Regulations.

SECTION IV – FINAL PROVISIONS

Article 17. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority gives written notice to the others. If any 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 Articles 7 to 9.

Article 18. Entry into force

This MoU enters into force on 22 July 2013.



Autorité des marchés financiers (France)

Le Président

Autorité des marchés financiers

17, Place de la Bourse

75082 PARIS CEDEX 2

Tél. : 01 53 45 60 00

Signatures



Monetary Authority of Hong Kong

Appendix A. Contact person

Autorité des marchés financiers (AMF)	Managing Director, Investigations and Inspections Division Autorité des marchés financiers 17, place de la Bourse, 75082 PARIS Cedex 2 E-mail : celluleinternationale@amf-france.org
Hong Kong Monetary Authority (HKMA)	Mr Angus Chan (for enforcement-related matters) Head of Enforcement Department, Division 1 Tel: (852) 2878 1287 Fax: (852) 2878 1887 Email: ashchan@hkma.gov.hk or Ms Alice Lee (for other matters) Head of Banking Conduct Department, Division 1 Tel: (852) 2878 1603 Fax: (852) 2878 2433 Email: amllee@hkma.gov.hk 55/F, Two International Finance Centre, 8 Finance Street, Central, Hong Kong