

Memorandum of understanding between the Hungarian Financial Supervisory Authority and the Commission bancaire et financière concerning their co-operation in the field of supervision of banks and investment firms

1. The Hungarian Financial Supervisory Authority (“HFSA”) and the Commission Bancaire et Financière (CBF), both hereinafter referred to jointly as “the Authorities” express their willingness to co-operate on the basis of mutual confidence and understanding and agree to base their co-operation in the field of supervision of banks and investment firms as defined in the relevant laws on the principles and procedures outlined in this Memorandum. This Memorandum serves as the basis for the co-operation between the two authorities, however it is not considered to be an international agreement in the meaning of the Hungarian laws. In that sense it does not supersede, modify or impair any domestic law, regulation presently in force in Hungary.

The Memorandum does not establish any rights enforceable by the parties hereto or third parties, nor does it affect any provisions adopted in other Memoranda of Understanding. In view of the forthcoming accession of Hungary to the European Union this Memorandum also facilitates the exchange of ideas, information and experiences between the authorities.

2. The HFSA is an independent legal entity of the Hungarian public administration supervised by the Government. The HFSA’s function is to ensure the good and prudent functioning of the banking, capital and insurance markets as well as pension fund industries, to provide transparency and to promote fair and orderly competition on that market.
3. The Commission Bancaire et Financière is an autonomous public institution which has its own legal personality. According to the Law of 22 March 1993, the Law of 6 April 1995 and the Royal Decree of 22 December 1995 and the Law of 11 January 1993, the Commission Bancaire et Financière is entrusted with the prudential supervision of credit institutions and investment firms and with the supervision of compliance by said institutions and firms with anti-money laundering legislation.

A. Information and cooperation regarding institutions

4. The Authorities intend to co-operate in the supervision of cross-border establishments of banks and investment firms incorporated in the respective other country and within their respective jurisdiction. For the purpose of this Memorandum “cross-border establishment” means a branch or a subsidiary of a bank or an investment firm within the Authorities jurisdiction in the respective other country.

The scope of co-operation encompasses the licensing (both issuance and revocation) as well as the ongoing supervision of the cross-border establishments, be they branches or subsidiaries.

Cooperation implies (i) the provision of information on cross-border establishments in or from the respective other country, unsolicited or upon specific request, (ii) assistance with regard to on site inspections and audits, (iii) collaboration concerning the execution of supervisory counter measures and, more generally, (iv) consultation and discussion aiming at resolving any supervisory problem.

5. The fundamental objective of co-operation between the authorities is to ensure that all activities of credit institutions and investment firms with a cross border establishment are subject to appropriate supervision. In case of supervision on a consolidated basis, the state where the parent bank or investment firm is situated must be sure that it can rely on the first line supervision carried out by the country where the subsidiary is located.

B. Licensing

6. If a bank or investment firm based in one of the two countries applies to the Authorities of the other country to establish a branch, the latter is hold to inform the home-country authority without delay. If the adequacy of home supervision is a statutory prerequisite which the host-country authority needs to address in the licensing procedure, it would contact the home-country authority to settle any question in this regard.
7. The home-country authority informs the host-country authority of the amount of own funds, the solvency ratio and the historic track-records of the parent bank or investment firm, and whether it is fully subject to and complies with the domestic banking or investment firm regulation, and whether it is expected in the light of its administrative structure and internal control to run the cross-border establishment in an orderly and proper manner. The home-country authority discloses any piece of information available to the host-country authority which might give rise to doubts as to the fit- and properness of the prospective managers of the cross-border establishment.

C. Co-operation concerning owner control

8. In the context of owner control the Authorities shall consult in the course of the licensing procedure to grant authorisation to a subsidiary of a bank or investment firm authorised in the other country or to consider and assess any acquisition of a share or interest in a domestic bank or investment firm through a bank or investment firm within the jurisdiction of the other Authority.

D. Ongoing supervision; corrective action

9. The HFSA and the CBF will inform each other, in good time and to the extent reasonable, about any event which has the potential to endanger the stability of banks or investment firms having cross-border establishments in the respective other country.

The HFSA and the CBF in good time and spontaneously inform each other of and discuss between each other any significant information on banks or investment firms having cross-border establishments in the other country which might be relevant to the other authority. Relevant matters are in particular : concerns about financial soundness of an institution (failure to meet capital adequacy or other financial requirements, significant losses, rapid decline in profits or a deterioration in profitability, liquidity problems), concerns relating to the management structure, compliance or internal control procedures, concerns arising from supervisory visits and on-site examinations.

The HFSA and the CBF will inform each other without delay if they learn of an incipient crisis relating to any institution supervised by either which has cross-border establishments or parent institutions in the respective other country.

10. The host-country will collaborate with the home-country authority, if the latter adopts supervisory counter-measures.
11. Representatives of the HFSA and the CBF convene for ad-hoc meetings to promote the resolution of supervisory problems concerning a cross-border establishment in the respective other country, whenever either side deems necessary to do so.
12. For institutions which are not licensed in Hungary and in Belgium respectively and which are licensed or apply for a license with one of the Authorities, the HFSA and the CBF will, as far as they are able, discuss any significant information available to them which might be relevant to the other Authority.

E. Financial Crime

13. The Authorities will immediately inform each other when they identify suspected financial crime activities in supervised institutions and will co-operate closely in combating such activities. For the purposes of this agreement, financial crimes are in particular : money laundering and all violations of law on financial markets. This also includes unauthorised banking or investment business. The Authorities share information on financial crime concerning the respective institutions which carry out cross-border activities in the other state or which could affect the other state to the extent allowed under their laws. They may pass on this information with prior written consent received from the other Authority for regulatory or law enforcement purposes to other such authorities in the national jurisdiction.

F. Customer complaints

14. If, within the framework of the examination of customer complaints, any information with supervisory character that is considered to be relevant to the other authority, in particular the quality of management, the financial position of the credit institution or investment firm, and the adequacy of their organisation, comes to the attention of the host-country or the home-country authority, the HFSA and CBF will ensure that this shall be properly communicated.

G. On-site inspections and audits

15. The Authorities agree that co-operation is particularly useful in assisting each other in carrying out on-site inspections of cross-border establishments. The CBF or the auditors commissioned by it are allowed to carry out inspections of branches and subsidiaries of Belgian banks and investments firms in Hungary. In return, the HFSA or the auditors commissioned by it are allowed to carry out inspections of Belgian branches and subsidiaries of banks and investment firms authorised in Hungary.
16. The Authorities shall notify each other usually one month in advance of any inspection, giving details of the names of the examiners, the purpose of the audit and its expected duration. The Authorities will allow each other to accompany any such on-site inspection carried out either by the Authorities themselves or the auditors commissioned by the Authorities. The Authorities will keep each other informed on the results of the inspections, if of interest to the host-country supervisor, to the extent reasonable and in a timely manner. If the parent institution has been audited along with its cross-border establishment in the other country, the home-country authority provides the host-country authority with a summary report on the findings which bear relevance to the cross-border establishment.
17. In case the host-country authority, within the framework of the prudential supervision of a subsidiary or branch operating on its territory, finds a case where explications and motives can be found at the parent institution of the subsidiary or branch operating in the host-country, the host-country authority informs the home-country authority without delay, thereby justifying its specific prudential interest. After due consideration the home-country authority may request the host-country authority's supervisors to accompany the home-country's supervisors during a targeted on-site examination or verification at the parent bank in the home-country having cross-border establishment in the host-country, mutually using findings collected by the host-country's supervisors during the on-site inspection at a branch or subsidiary of the parent bank in the host-country.

H. Filing of requests for information and professional secrecy

18. Requests for information in the framework of this Memorandum shall be made in writing and shall be addressed to the contact person of the requested authority listed in appendix.

In case of emergency, requests for information and replies to such requests may be transmitted orally provided that these requests are confirmed by writing unless the requested authority agrees to waive such requirements.

The request should specify the following:

- a description of the subject matter of the request and the purpose for which the information is sought and the reasons why this information will be of assistance;
 - a description of the specific information requested by the requesting authority;
 - in so far as the request results from investigations of violations of any laws or regulations, a short description of the relevant provisions that may have been violated and, if known to the requesting authority, a list of persons or institutions believed by the requesting authority to possess the pieces of information sought or the places where such information may be obtained;
 - in so far as the request relates to information concerning the business or activities of any person, such precise information as the requesting authority is able to provide so as to enable such persons to be identified;
 - an indication of the sensitivity of the information contained in the request and whether the requesting authority is content for the fact that it has made the request to be disclosed to persons whom the requested authority may need to approach for information;
 - an indication of the urgency of the request, or the desired time period for the reply.
19. Compliance with the obligation of professional secrecy by all officials who receive classified information from the other authority in the course of their activities is a necessary condition for successful co-operation between the Authorities. The Authorities will maintain the confidentiality of all information received.

The CBF is bound by professional secrecy with regard to the confidential information she may possess as a supervisory authority of credit institutions and investment firms. Secrecy provisions are laid down in articles 74 and 75 of the Law of 2 August 2002 on the supervision of financial sector and financial services.

The HFSA is also obliged to keep the confidentiality of the information in accordance with article 11 of the law of 1999 on the HFSA, article 55 of the law of 1996 on credit institutions and financial enterprises and article 371 of the law of 2001 on capital market.

The requesting authority will not disclose any information obtained unless it is necessary for carrying out its supervisory responsibilities and will not pass on any information to third parties without the prior written consent of the requested authority.

In cases where the requesting authority is legally bound to disclose the information obtained to third parties but where the requested authority fails to consent with such disclosure, the requesting authority will draw the attention of the information's addressees on the absence of consent and on the possible negative consequences of the disclosure on future exchange of confidential information between the CBF and the HFSA or other foreign supervisory authorities.

I. Technical arrangements

20. In order to enhance the quality of co-operation, representatives of the HFSA and the CBF convene regularly to discuss issues concerning banks and investment firms which maintain cross-border establishments within their respective jurisdiction. In these meetings they will also review the effectiveness of these arrangements. The Belgian and the Hungarian supervisors intend to promote their co-operation by visits for informational purposes and by exchange of staff.
21. The Authorities will ensure that upon request they send each other the relevant lists of licensed institutions which they have authorised. They advise each other upon request on any aspect of their regulatory systems and notify about any major change in their domestic rules and regulations within their jurisdiction, in particular about those changes which have a significant bearing on the activities of cross-border establishments.
22. Co-operation and assistance in accordance with this Memorandum of Understanding will continue until the expiration of 30 days after either Authority gives written notice to the other Authority of its intention to discontinue co-operation and assistance. If either Authority gives such notice, co-operation and assistance in accordance with this Memorandum will continue with respect to all requests for assistance that were made before the effective date of notification until the requesting Authority withdraws the matter for which assistance was requested. In the event of termination of this Memorandum, information obtained under this Memorandum of Understanding will continue to be treated confidentially.

Signed at this day :5th of March 2003.....

For the
Hungarian Financial
Supervisory Authority
The President



For the
Commission Bancaire et Financière
The Chairman

