

BANKING, FINANCE AND INSURANCE COMMISSION

Prudential Policy

Dear Sir,

**Re : COOPERATION AND SHARING OF INFORMATION BETWEEN THE
MONETARY AUTHORITY AND THE BANKING, FINANCE AND INSURANCE
COMMISSION**

As banking organizations licensed in Hong Kong and Belgium have operations in each of the respective jurisdictions, the Monetary Authority ("HKMA") and the Banking, Finance and Insurance Commission ("BFIC") have initiated talks in order to establish an arrangement for the sharing of supervisory information to facilitate the performance of their respective duties. Within this context, the reference to "banking organization" should be read as a reference to a financial institution incorporated in Hong Kong or Belgium and licensed or supervised by the HKMA or the BFIC.

The arrangement to be established between the HKMA and the BFIC and the sharing of information carried out following this arrangement will be based : (i) on the BFIC's side, on the provisions of the Law of 22 March 1993 on the legal status and supervision of credit institutions and on the Law of 2 August 2002 on the supervision of the financial sector and on financial services; and (ii) on the HKMA's side, on the provisions of the Banking Ordinance (Cap. 155 of the Laws of Hong Kong), in particular, section 121.

The arrangement to be established between the HKMA and the BFIC would cover the following elements : (i) sharing of information; (ii) periodic meetings and ongoing contacts; (iii) on-site examinations and visits; and (iv) confidentiality and use of information.

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SHARING OF INFORMATION

1. To the extent permitted by law, the HKMA will endeavour to inform the BFIC and provide relevant information regarding a material supervisory concern that it may have in respect of :
 - a. A Belgian banking organization or a Hong Kong branch, agency, representative office (collectively, "Hong Kong Branch") or subsidiary of a Belgian banking organization; and
 - b. A Belgian branch, representative office or subsidiary of a Hong Kong banking organization.
2. To the extent permitted by law, the BFIC will endeavour to inform the HKMA and provide relevant information regarding a material supervisory concern that it may have in respect of :
 - a. A Hong Kong banking organization or a Belgian branch, agency, representative office (collectively, "Belgian Branch") or subsidiary of a Hong Kong banking organization; and
 - b. A Hong Kong Branch or subsidiary of a Belgian banking organization.
3. A material supervisory concern as described herein will include concerns that arise from actions of affiliates or associates of the banking organization.
4. When the HKMA or the BFIC plans to take remedial action to address a material supervisory concern, each authority will endeavour to inform the appropriate authority in the other jurisdiction prior to it taking the appropriate action or, as circumstances dictate, as soon thereafter as practicable.
5. In carrying out any of the provisions set out in paragraphs 1, 2 and 4 above, in the case of a Hong Kong or Belgian banking organization facing serious financial difficulties that could have a material adverse impact on the operations of such banking organization in the respective host jurisdiction, the HKMA and the BFIC recognize that close liaison between home and host authority would be mutually advantageous. The HKMA and the BFIC will endeavour to communicate, to the extent permitted by law, such information as would be appropriate in the particular circumstances, taking into account all relevant factors, including the status of efforts by the home jurisdiction authority to resolve the banking organization's difficulties and restore confidence in the banking organization.
6. Upon written request to the HKMA signed by an authorized official of the BFIC, the HKMA may, to the extent permitted by law, provide to the BFIC information contained in examination, inspection or other reports concerning Hong Kong Branches or subsidiaries of Belgian banking organizations and any other confidential information regarding a Belgian banking organization or any of its Hong Kong Branches and subsidiaries in Hong Kong that is obtained as part of the supervisory process. Such information would not normally include customer account information.

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7. Upon written request to the BFIC signed by an authorized official of the HKMA, the BFIC may, to the extent permitted by law, provide to the HKMA information contained in examination, inspection or other reports concerning Belgian Branches or subsidiaries of Hong Kong banking organizations and any other confidential information regarding a Hong Kong banking organization or any of its Belgian Branches and subsidiaries in Belgium that is obtained as part of the supervisory process. Such information would not normally include customer account information.
8. When the HKMA and the BFIC perceive a need for expedited action, requests for information under paragraphs 6 and 7 may be initiated in any form, including orally, but such requests should be confirmed subsequently in writing. The HKMA and the BFIC will endeavour to respond to such requests in a timely manner.
9. The HKMA intends to provide to the BFIC, and the BFIC intends to provide to the HKMA, either upon request or at such times as they may mutually agree (a) information as is reasonably required by the other to facilitate a determination whether a proposed branch or subsidiary meets or continues to meet the requirements for authorization; (b) information regarding the extent and nature of each authority's supervision on a consolidated basis of banking organizations with operations in the other jurisdiction; and (c) information concerning material changes in or developments with respect to each authority's supervisory regime.
10. The provision of, or request for, information under the above paragraphs may be denied (a) where compliance would require the HKMA or the BFIC to act in a manner that would violate any applicable law or agreement entered into by the authority concerned; (b) where complying with the request is likely to result in a prejudice to sovereignty, security, public interest, interests of depositors or potential depositors, essential economic interests or public policy; (c) where compliance with a request or provision of information would interfere with an ongoing investigation; or (d) where criminal proceedings have been initiated on the same facts against the same persons, or where a final decision to impose a sanction has been given against such persons for the same facts.
11. In the case of a Belgian or Hong Kong banking organization facing serious financial difficulties that could have a material adverse impact on the foreign operations of such banking organization, and subject to final agreement at the time, the BFIC and the HKMA expect that the home authority would coordinate the dissemination to other host authorities of whatever information the home authority judges appropriate, subject to the provisions of paragraphs 16 to 24 below.

PERIODIC MEETINGS AND ONGOING CONTACTS

12. Representatives of the BFIC and the HKMA will endeavour to meet on a need basis to discuss general supervisory developments as well as issues concerning banking organizations which maintain operations in both Hong Kong and Belgium. In addition, the HKMA and the BFIC may promote their cooperation through visits to the other jurisdiction for informational purposes, by participation in each other's training programs and by exchange of staff. Every effort will be made to encourage continuous and informal contacts between the staff at the BFIC and the HKMA.

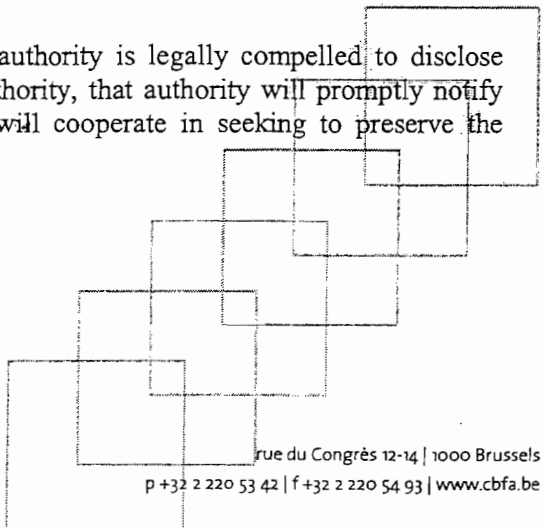
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ON-SITE EXAMINATIONS AND VISITS

13. The HKMA intends to notify the BFIC of plans to examine or visit any Belgian Branch or subsidiary of a Hong Kong banking organization located in Belgium and the BFIC intends to notify the HKMA of plans to examine or visit any Hong Kong Branch or subsidiary of a Belgian banking organization in Hong Kong. The authority in the jurisdiction where such examinations or visits are to take place may inform the examining authority of any subject matter in which it has a particular concern or interest.
14. The BFIC may request on an exceptional basis the HKMA to conduct an examination of the Hong Kong Branch or banking subsidiary of a Belgian banking organization and the HKMA may request on an exceptional basis the BFIC to conduct an examination of the Belgian Branch or banking subsidiary of a Hong Kong banking organization. The BFIC and the HKMA, as the case may be, would endeavour to establish the basis and terms upon which such examinations are to be conducted.
15. The host authority may accompany the home authority during an examination or visit of a branch or banking subsidiary in the host jurisdiction, subject to consideration and agreement by the relevant authority on a case-by-case basis.

CONFIDENTIALITY AND USE OF INFORMATION

16. Any confidential information shared pursuant to this letter is to be used only for lawful supervisory purposes.
17. To the extent permitted by law, the BFIC shall treat as confidential all such information received from the HKMA pursuant to this letter and shall not disclose such information other than in accordance with such conditions (if any) attached by the HKMA to the provision of such information and as necessary to carry out its lawful supervisory responsibilities.
18. To the extent permitted by law, the HKMA shall treat as confidential all such information received from the BFIC pursuant to this letter and shall not disclose such information other than in accordance with such conditions (if any) attached by the BFIC to the provision of such information and as necessary to carry out its lawful supervisory responsibilities.
19. All documents provided by an authority will remain the property of the authority providing such information.
20. Subject to paragraphs 16 to 19 above, when an authority is legally compelled to disclose confidential information provided by the other authority, that authority will promptly notify the authority that provided the information and will cooperate in seeking to preserve the confidentiality of the information.



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21. Subject to paragraphs 16 to 20 above, when an authority receives a request from a third party for confidential information provided by the other authority, before disclosing such confidential information, that authority (a) will promptly notify the authority that provided the information; (b) will solicit the providing authority's views about the releasing of such information to the third party; and (c) will cooperate in seeking to preserve the confidentiality of the information.
22. The sharing of confidential information between the HKMA and the BFIC is done in reliance on the foregoing assurances and shall not constitute a waiver of any legally cognizable privilege as to any person other than the HKMA and the BFIC.
23. The HKMA and the BFIC, in providing confidential written materials pursuant to this letter, should mark every page of the material provided with a legend reading substantially as follows.
"Confidential – provided pursuant to the HKMA/ BFIC exchange of letters"
24. The arrangement set out in this letter is to continue in effect for a period of one year from the date of acceptance of the arrangement by the HKMA and will automatically be renewed each year thereafter subject to modification or termination by mutual consent of the HKMA and the BFIC, provided, however, that the provisions under the heading "Confidentiality and Use of Information" and the following paragraph are to continue in effect with respect to any information provided or actions taken pursuant to this letter notwithstanding the termination of the arrangement set out in this letter pursuant to this paragraph 24.

I would like to invite you to let me know whether the HKMA would consent to implement its co-operation with the BFIC in accordance with the above paragraphs. It is acknowledged that this letter and the response the HKMA will provide are a statement of intent and do not create any legally binding obligations on either party. This letter, the response to it and the arrangement to be established between the HKMA and the BFIC, are not intended to give rise to the right on the part of any person, entity or governmental authority, directly or indirectly, to obtain any information or to challenge the execution of a request for information executed between the HKMA and the BFIC.

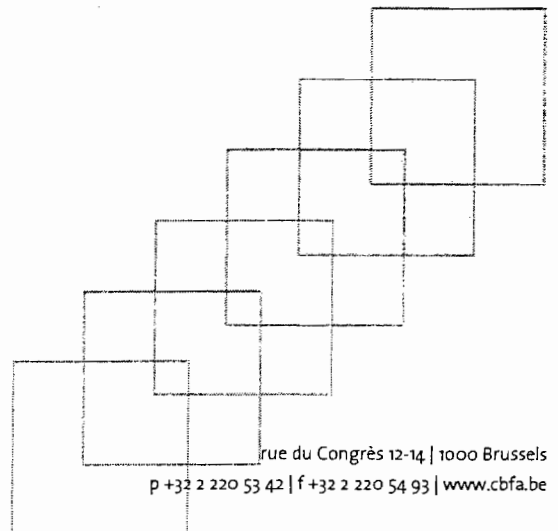
I look forward to hearing from you.

Yours sincerely,

The Chairman,



E. Wymeersch.




Cooperation and Sharing of Information between the Banking, Finance and Insurance Commission of Belgium and the Monetary Authority

I refer to your letter of 3 February 2005 on the above subject matter.

We agree that the cooperation between the Banking, Finance and Insurance Commission and the Monetary Authority be implemented in accordance with the terms set out in the Letter.

Yours sincerely,


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