

**MEMORANDUM OF COOPERATION
BETWEEN**

**BANCA D'ITALIA
AND
THE SUPERINTENDENCY OF BANKING AND INSURANCE OF PERU**

1. REASONS FOR A MEMORANDUM OF COOPERATION

Taking into account that there are subsidiaries of Italian banks and banking groups which perform financial activities in Peru and that an inverse condition would be feasible, both the Banca d'Italia and the Superintendency of Banking and Insurance of Peru deem that bilateral cooperation would be convenient and beneficial to achieve an effective supervision of said institutions.

To this effect, both authorities, within the scope of their respective legal faculties and with a spirit of mutual trust and understanding, agree to develop said cooperation in the terms and conditions set forth in the Memorandum hereof.

Moreover, this Memorandum shall apply to the development of cooperation for the supervision of Italian and Peruvian banks' branches.

2. PRINCIPLES ON THE SUPERVISION OF INTERNATIONAL BANKS

Both authorities commit themselves to the principles contained in the documents of the Basel Committee on Banking Supervision (Concordat, 1983; Core Principles for Effective Banking Supervision, 1997) and, therefore, agree upon the functions allocated in both documents to the supervisor of the parent institution (home supervisor) and the supervisor of the country in which the subsidiary is located (host supervisor).

In summary, both authorities agree that the home supervisor shall be in charge of the control (supervision) of the organization, internal management and control, risks, capital adequacy and, in general, any significant aspect which may affect the solvency and financial stability of the group and shall have access to all the information it may require for this effect. On the other hand, the host supervisor shall supervise the organization, internal management and controls, risks, effectiveness of control policies with respect to money laundering, the capital and, therefore, the continuity of the entity or entities operating within its territory, guaranteeing the veracity of their financial statements and the accuracy of the information received by the home supervisor, pursuant to the regulations in force in each financial system.

Moreover, in the event that the entities operating in the host country have established branch offices or subsidiaries in other countries, the host supervisor must simultaneously assume the responsibility as the home supervisor of the corresponding subgroup, provided that the regulations of the countries where the subsidiary or branch office is located permit it.

Both authorities undertake to develop close cooperation in order to achieve the aforementioned objectives. To this effect, on and after their own decision or request,



they shall exchange the pertinent information available and shall facilitate the performance of their functions.

3. **CONFIDENTIALITY**

Compliance with the duty of professional secrecy by all employees receiving confidential information from the other country during the exercise of their functions is a necessary condition for the successful bilateral cooperation between the Italian and Peruvian authorities. The information exchanged between both authorities may only be used for supervision purposes and may not be furnished or disclosed to third parties without the express authorization of the authority supplying such information.

In Italy, the professional secrecy is regulated by Article 7 of the Italian Banking Law.

In Peru, the banker's duty of secrecy is regulated pursuant to the provisions of Article 140 and 143 and the professional secrecy pursuant to the provisions of Article 360 of the General Law of the Financial and Insurance Systems and the Organic Law of the Superintendency of Banking and Insurance, Law 26702, amended by Laws 27008 and 27102, hereinafter referred to as the Banking Law.

4. **GENERAL COMMITMENT OF COOPERATION AND EXCHANGING OF INFORMATION**

The home supervisor is interested in identifying the companies which form part of the group, or those in which the parent company holds a significant share; likewise, it is interested in knowing of the operations carried out within the group and any other information that may produce adjustments in the consolidated balance sheets, as well as any problem or weakness detected in the operations, internal controls, financial situation or in the public image of the companies that are engaged in activities in the host country. Therefore, provided that the information is relevant, the home supervisor shall be interested in acquiring information on the observations, requirements, sanctions imposed and, in general, any other measure taken by the host supervisor related to the companies that are part of the group or in which the parent company holds investments, and to their directors.

Similarly, the home supervisor may be interested in the host supervisor furnishing it with any significant available information that may contest the prudent management of the group. In addition, the home supervisor may request the necessary assistance from the host supervisor, in such a manner that the subsidiaries may provide their parent companies with the accounting information required for the control of risks and their effective consolidation and, specifically, detailed information with respect to credits, investments and stock portfolio.

On the other hand, the host supervisor may be specially interested in becoming aware of the quality of the management or internal controls applied by the parent bank, as well as the problems or weaknesses of the group as a whole, or the measures taken by the home supervisor that may affect the financial standing of local institutions.



Both authorities may be interested in knowing the condition and evolution of their respective financial markets and the competitive position of the groups operating in their territories.

5. ASPECTS RELATED TO THE ACTIVITIES CARRIED OUT BY A GROUP

The Banca d'Italia executes banking supervision activities both on an individual and a consolidated basis according to the internationally accepted standards.

According to Italian Law, a banking group is constituted by: a) an Italian parent bank and the banking, financial and instrumental institutions under its control; b) a parent financial company and the banking, financial and instrumental institutions under its control, provided that the group has a significant banking component pursuant to the provisions established by the Banca d'Italia in compliance with the resolutions enacted by the Comitato Interministeriale per il Credito e il Risparmio. Parent companies are obliged to present each semester a consolidated balance sheet and consolidated income statements together with statistical data and other information.

The banks, including branch offices and subsidiaries of foreign banking groups, must also furnish details and information individually.

In Peru, pursuant to the provisions of Article 138 of the Banking Law, the Superintendency of Banking and Insurance of Peru, in the exercise of the consolidated supervision of the financial conglomerates, requires the individual or consolidated presentation of balance sheets and other pertinent financial information from the companies under its supervision, as it may deem convenient, and capital requirements and limits as well.

In addition, according to the Regulations on Consolidated Supervision, the supervised companies of the financial system shall hand over to the Superintendency of Banking and Insurance of Peru, consolidated financial statements, mechanisms of risk identification and management, list of directors, associates, managers, property composition and management of the conglomerate and others which it may deem convenient.

To this effect, the aforementioned regulation indicates that the following companies are considered consolidated groups:

- a) Consolidated Group of the financial system, made up of companies of multiple operations, specialized firms, investment banks, companies providing supplementary and related services under the provisions of Article 17 of the Banking Law, traders of the stock market, pension fund management companies, mutual fund management companies, investment funds management companies, securitization and/or special purpose companies.
- b) Consolidated Group of the insurance system: shall be comprised by insurance companies, reinsurance companies and/or health service companies.

Similarly, in Peru, when the control of a conglomerate is exercised by a holding company, its financial information shall consolidate with the group holding the majority



interest in the assets of the conglomerate. The Superintendency of Banking and Insurance of Peru may order the incorporation of other body corporates within the consolidated groups for prudential reasons.

Whenever necessary and at least once a year, both authorities agree to exchange the list of the entities, whether subject to a consolidated supervision or not, which are known to be included in the banking groups subject matter of the Memorandum hereof. Moreover, once a year the control bodies shall receive information regarding the most important operations carried out within the groups, both in the country and with entities with headquarters abroad.

6. ASPECTS REGARDING THE AUTHORIZATION OF BANKING SUBSIDIARIES

The creation of foreign banking subsidiaries or the acquisition of significant interests, directly or indirectly, in a pre-existing institution is subject to the authorization of the corresponding control entities. Said authorization may be rejected due to causes indicated in the law, or, based on the financial situation of the credit institution or its management capacity, when it is considered that the project may have a negative effect; when an effective supervision of the group based on the consolidated terms cannot be ensured; or when activities undertaken by the supervised entity are not subject to an effective control by the home supervisory authority.

In Italy, the creation of branch offices or subsidiaries by Italian banks in a non-member country of the European Community, or the acquisition of significant interests, directly or indirectly, in pre-existing foreign institutions, is subject to the authorization of the Banca d'Italia. The Banca d'Italia evaluates the organization of the bank requesting the authorization, taking into account whether its new structure will ensure the exercising of an effective consolidated supervision. According to Italian laws (Article 61(4) of the Banking Law of 1993), the parent company, in carrying out its activity of management and coordination, shall issue specific regulations to the members of the group in order to enforce the instructions issued by the Banca d'Italia to the benefit of the group's stability. The companies included within the scope of the consolidated supervision will provide to the parent company the reports, figures and information necessary to execute the consolidated supervision. Therefore, it is essential for the Banca d'Italia to verify the regulations in force in the country where the member of the group is located to allow a smooth exchange of said information. The Banca d'Italia may require the auditing of the financial statements of the companies included within the scope of the consolidated supervision.

In Peru, the Superintendency of Banking and Insurance requires that the parent companies of foreign affiliates furnish duly updated information regarding the financial situation of said affiliates, their risk level and the management and control thereof, both locally and within the group. On the other hand, parent companies must subject their foreign banking affiliates to an external audit or tax review, preferably by the same firm that audited the group as a whole.



The supervisory bodies apply to foreign banking institutions operating in their territory the same requirements and supervision as all other authorized banking institutions within the country.

The Banca d'Italia and the Superintendency of Banking and Insurance of Peru shall freely discuss any aspect and may request the exchange of any significant information they may hold in relation to said subsidiaries.

7. **ON SITE INSPECTIONS**

In Italy, on site inspections of credit institutions are undertaken by the Ispettorato Vigilanza della Banca d'Italia and may comprise an overall analysis of the firm or the investigation about specific areas thereof.

The main objectives of an inspection are the verification of the bank's soundness and the verification of compliance with the supervision regulations as well as the accuracy of the reports and statistics furnished to the supervisory authorities. To this effect, an evaluation is carried out of management activities, the consistency and implementation of strategic plans, the condition of the institution's assets, its position in the market and the effects on solvency, liquidity and profitability. Inspection methods are contained in a handbook that guarantees the consistency of procedures and the comparison of the findings.

In Peru, pursuant to the provisions of Article 357 of the Banking Law, at least once a year and when deemed necessary, the Superintendency shall carry out routine and special inspections to examine the situation of the supervised firms, establishing the content and scope of the inspections.

On the other hand, in compliance with Article 350 of the Banking Law, the Superintendent may request all information he/she may deem necessary with respect to the financial situation, resources, administration or management, performance of representatives, degree of security and reasonable care of investments and any and all other matter which in his/her opinion must be clarified.

In the event of companies incorporated in Peru that constitute the financial conglomerate, the Superintendency of Banking and Insurance of Peru may request the supplementary information it may require from the member companies, individually or jointly, and obtain said information directly from the companies supervised by means of inspection visits and other on site procedures that it may deem necessary. In the case of foreign non-domiciled corporations, which constitute a financial conglomerate, the main activities of which are developed in Peru, it is the supervised companies' responsibility to furnish the Superintendency with all necessary information for the consolidated supervision. In the event of financial conglomerates whose activities are developed outside the territory of the Republic of Peru, the consolidated supervision is the responsibility of the supervisory entity of the parent company. Without detriment to the foregoing, the Superintendency of Banking and Insurance of Peru shall apply reasonable regulations of consolidated supervision to the extent necessary for the best development of its functions.



In the case of mixed conglomerates the supervised companies are responsible for furnishing the Superintendency of Banking and Insurance of Peru with all the information required for the execution of the consolidated supervision. Accordingly, as stated in the Regulations on Consolidated Supervision, the Superintendency of Banking and Insurance of Peru may require financial and audit information from the supervised companies not subject to a consolidated supervision and may determine the application of reasonable measures in view of the relevance of its operations in the financial and/or insurance system.

Consequently, the Banca d'Italia and the Superintendency of Banking and Insurance of Peru, according to their legal faculties and supervision practices, may carry out on site inspections in banking institutions. Said inspections may be carried out on any other institution belonging to the banking group, provided the regulations of the entities of the host country allow it.

Based on the foregoing, the parties hereto agree that bilateral cooperation is particularly useful for the purpose of mutual assistance in the on site inspection of branch offices and subsidiaries. At the request of any of the parties and upon mutual consent, the Banca d'Italia and the Superintendency of Banking and Insurance of Peru may include institutions located in the other country in their on site inspection schedule. If this is the case, none of the authorities see any legal impediment to the possibility that the supervisory entity of the parent company, which acts as a guest, may carry out an on site inspection in the host country.

In this case, the parties hereto agree on the following procedures:

- The home supervisor shall inform the host supervisor, through written notice forwarded in advance, of its intention to carry out the inspection of a branch office or subsidiary located in the territory of the host supervisor.
- The host supervisor shall provide the home supervisor with the required assistance.
- The host supervisor may suggest that the visiting supervisor hold a meeting prior to the inspection. The host supervisor shall inform the visiting supervisor regarding any required proceeding and/or procedure.
- The home supervisor shall inform the host supervisor of the conclusion of the inspection of a branch office or subsidiary located in the territory of the host supervisor and shall forward a summarized version of the inspection report.
- The host supervisor shall inform the home supervisor that an inspection of a branch office or subsidiary located in its territory is being carried out and shall furnish information on the outcome of the executed control.

8. ASPECTS RELATED TO FINANCIAL SUBSIDIARIES SUPERVISED BY OTHER AUTHORITIES

The home supervisor shall be interested in being informed on any other aspect that could be of its interest for the supervision of the groups. Also, it shall be interested in



becoming familiar with the relevant amendments in the local legal provisions affecting such institutions.

At the request of the home supervisor, the host supervisor may agree to act as an intermediary between the home supervisor and other supervisory authorities operating in the host country.

9. ASPECTS RELATED TO NON FINANCIAL INSTITUTIONS

In both countries the interests of banking institutions in non-financial companies are subject to certain limitations. Supervisory bodies are interested in being informed on any aspect concerning this matter.

10. CONTACTS OR MEETINGS OF REPRESENTATIVES OF BOTH AUTHORITIES

The persons in charge of supervisory functions in both countries may require recommendations and clarifications from the other party anytime, as well as the carrying out of the meetings deemed necessary.

11. GENERAL COMMITMENT OF EXCHANGE OF INFORMATION ON THE RESPECTIVE BANKING SYSTEMS

Both authorities commit to exchange and to keep updated all relevant information on their respective banking systems, on the applicable legal provisions and on the local supervisory policies.

12. RECIPROCITY AND UPDATING OF THE DOCUMENT

Even though currently there is no evidence of the presence of Peruvian entities in the Italian market, both authorities agree that the content of this Memorandum shall be applied reciprocally in all senses, if such a situation occurs.

It is hereby agreed that the Memorandum shall be revised for its updating whenever necessary or at the request of any of the parties.

In addition, since article 25 of the EC Directive 2000/12/EC, entitles the European Commission to negotiate agreements with one or more third countries regarding the means of exercising supervision on a consolidated basis over:

- credit institutions the parent undertakings of which have their head offices situated in a third country, and
- credit institutions situated in third countries the parent undertakings of which, whether credit institutions or financial holding companies, have their head offices in the Community,

this Memorandum might be revised in case Peru concludes such an agreement.



13. TERM AND TERMINATION OF THE MEMORANDUM

This Memorandum shall be in full force and effect as from the date of its signing. Any of the subscribing parties may request the termination of this Memorandum and must notify the other party to this effect within a period of sixty (60) calendar days so that the other party may render its opinion in this regard. If, within said term no communication is forwarded the Agreement shall be understood as terminated.

Signed in two copies.

For the Superintendency
of Banking and Insurance of Peru:

For the Banca d'Italia:

Luis Cortavarria Checkley, Superintendent

Antonio Fazio, Governor

2001

2001