

MEMORANDUM OF COOPERATION RELATED TO THE SUPERVISION OF SUPERVISED ENTITIES

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of regulated entities, the Financial Services Agency of Japan and Banca d'Italia (hereinafter collectively referred to as the "Authorities" and individually as an "Authority") have reached this Memorandum of Cooperation ("MoC") regarding mutual cooperation and the exchange of information in the supervision and crises management of Supervised Entities (as defined below) that operate on a cross-border basis in both Japan and Italy. Insofar as there is a link to the activity of such Supervised Entities, this MoC intends to cover associated or affiliated persons, tied agents, depositaries thereof as well as delegates.

The Financial Services Agency of Japan is a financial regulator which has a broad regulatory authority over the financial sectors including banking, insurance and securities. Established in 2000 as an external organ of the Cabinet Office of Japan, it is responsible for ensuring the stability of the financial system, protecting the users of financial instruments and services and facilitating the smooth function of financial services.

Banca d'Italia supervises banks and non-banking intermediaries (including investment firms, asset management companies and collective investment undertakings as regards risk containment, stability and their sound and prudent management). Since November 2014 its supervisory tasks have been carried out within the framework of the Single Supervisory Mechanism (SSM) as provided for by the EU SSM Regulation. Banca d'Italia is also responsible for anti-money laundering/combating terrorism financing (AML/CFT) and consumer protection tasks. BI also has a macroprudential mandate and it is the National Resolution Authority, exercising the related functions within the framework of the Single Resolution Mechanism (SRM) as provided for by the EU SRM Regulation.

The Authorities express, through this MoC, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates in the context of supervising firms within the scope of this MoC, particularly in the areas of: promoting the safe and sound functioning of the Supervised Entities, ensuring the integrity (including from the AML/CFT perspective), stability, transparency and efficiency of the financial system, protecting clients and maintaining confidence in the financial system.

ITEM ONE: DEFINITIONS

For purposes of this MoC:

1. "Authority" means:
 - a. In Japan, the Financial Services Agency ("JFSA"); or
 - b. In Italy, Banca d'Italia ("BI").
2. "Cross Border Establishment" means a place of business of a Supervised Entity, including a branch, a representative office, a subsidiary or any other relevant entity of a Supervised Entity

operating or localised within the jurisdiction of an Authority, and over which the other Authority exercises supervisory responsibilities.

3. “Emergency Situation” means the occurrence or imminent occurrence of an event that could materially impair the financial or operational condition of a Supervised Entity, their clients or the stability of the financial system or the markets.
4. “Laws and Regulations” means the provisions of the laws, regulations and requirements (including, in the case of BI, EU regulations) that fall within the competence of JFSA or BI, including those applicable to Supervised Entities in Japan or Italy;
5. “Local Authority” means the Authority in whose jurisdiction a Supervised Entity that is the subject of an On-Site Visit is physically located.
6. “On-Site Visit” means any regulatory visit by one of the Authorities at a Supervised Entity's premises located in the other Authority’s jurisdiction for the purpose of supervisory tasks, which may include where applicable consolidated supervision, related to such Supervised Entity's activity in the responsibility of the Visiting Authority. This may include regulatory visit in connection with supervised activities outsourced or delegated to a delegate in the other Authority's jurisdiction.
7. “Person” means a natural person, unincorporated association, partnership, trust, investment company, or corporation.
8. “Requested Authority” means the Authority to whom a request is made under this MoC.
9. “Requesting Authority” means an Authority making a request under this MoC.
10. “Supervised Entity” means an entity, other than an insurance or reinsurance undertaking or a pension scheme, that is, or that has applied to be, authorized, recognized, qualified, licensed, registered, supervised, or overseen by one or more of the Authorities pursuant to Laws and Regulations, including its Cross Border Establishment(s) and/or its operations on a cross-border basis, which falls within the prudential, conduct or AML supervisory remit, as applicable, of an Authority, as specified in their applicable legal framework.
11. “Visiting Authority” means the Authority conducting an On-Site Visit.

ITEM TWO: GENERAL MATTERS

12. This MoC is a statement of intent to consult, cooperate, and exchange information in connection with the supervision of Supervised Entities with respect to the specific competence conferred by laws and regulations on each of the Authorities. The cooperation and information sharing arrangements under this MoC should be interpreted and implemented in a manner that is permitted by, and consistent with, the legal requirements applicable to each Authority. With respect to cooperation pursuant to this MoC, the Authorities acknowledge that they may only

provide information under this MoC to the other to the extent that they are not prevented from doing so under their respective domestic law. The Authorities believe that no secrecy or blocking laws or regulations should prevent an Authority from providing assistance to the other Authority. The Authorities anticipate that cooperation primarily will be achieved through ongoing informal consultations, supplemented as needed by more formal cooperation, including through mutual assistance in obtaining information related to Supervised Entities. The contents of this MoC are intended to support both informal consultations and formal cooperation, as well as to facilitate the written exchange of non-public information in accordance with applicable laws and regulations.

13. This MoC does not create any legally binding obligations, confer any rights, modify or supersede domestic or European Union legislation or restrict the Authorities in the exercise of their statutory powers and functions. This MoC 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 MoC.
14. This MoC is not intended to limit or condition the discretion of an Authority in any way in the discharge of its regulatory responsibilities or to prejudice the individual responsibilities or autonomy of any Authority. This MoC does not limit an Authority to taking solely those measures described herein in fulfillment of its functions or preclude Authorities from sharing information or documents with respect to Persons that are not Supervised Entities but may be subject to regulatory requirements in Japan and in Italy. In particular, this MoC does not affect any right of any Authority to communicate with, conduct an On-Site Visit of (in line with Item Five), or obtain information or documents from any Person subject to its jurisdiction that is physically located in the jurisdiction of another Authority.
15. To facilitate cooperation under this MoC, the Authorities hereby designate contact persons as set forth in Attachment, which may be modified from time to time by an Authority transmitting revised contact information in writing to the other Authority.

ITEM THREE: SCOPE OF SUPERVISORY CONSULTATION, COOPERATION, AND EXCHANGE OF INFORMATION

General

16. The Authorities agree to provide one another with the fullest cooperation permissible under applicable laws and regulations for the purpose of this MoC, through the most appropriate means and in accordance with procedural requirements applicable in their respective jurisdiction and with the principle of reciprocity.
17. Cooperation may include:
 - a) sharing of information;
 - b) cooperation in connection with On-Site Visits; and
 - c) discussion on issues of mutual supervisory interest.

18. The Authorities recognize in particular the importance of close cooperation in the event that they become aware of an incipient crisis of a Supervised Entity, such as but not limited to, serious financial difficulties, which might have a material adverse impact on operations relating to any Supervised Entity in the respective jurisdictions of the Authorities.
19. Cooperation will be most useful in, but is not limited to, the following circumstances where issues of common regulatory concern may arise and where the Authorities hold or have the powers to access the relevant information:
- a. The initial application for authorization, recognition, qualification, license, registration, or exemption therefrom, of a Supervised Entity to provide regulated services or activities (including investment services or activities, banking activities and/or collective portfolio management activities) in the jurisdiction of the other Authority with a Cross Border Establishment and/or on a cross border basis (i.e. without establishment).
 - b. The application for approval to acquire, dispose of or increase qualified holdings, or substantial holdings, as the case may be, in a Supervised Entity.
 - c. The fitness and probity of prospective directors and managers, qualifying shareholders, and, where relevant, management body members and key function holders, of a Supervised Entity.
 - d. The ongoing supervision of a Supervised Entity, including the risk assessments of Supervised Entities where the information is relevant and material to the other Authority in the performance of the ongoing supervision, and compliance with Laws and Regulations in either jurisdiction.
 - e. Regulatory approvals or supervisory or enforcement actions taken in relation to a Supervised Entity by the JFSA or BI that may materially impact the operations of the Supervised Entity in the jurisdiction of the other Authority.
 - f. Verifications and controls in the context of delegation and outsourcing of any of the Supervised Entities' functions (in particular, but not limited to, critical or important operational functions, portfolio management and/or risk management) to a person located in the other Authority's jurisdiction.
 - g. The implementation of crisis management measures which may be taken by the Authorities in response to a potential financial crisis as permissible under the Laws and Regulations applicable in the jurisdiction of each Authority.

Event-Triggered Notification

20. As appropriate in the particular circumstances, the Authorities intend, on their own initiative, to share relevant information in their possession or discovered regarding Supervised Entities which could be of assistance in the performance of their duties (e.g. enforcement actions or sanctions and any material events – as for instance changes in the ownership, financial resources, management - or pending regulatory changes that may have a material impact on the financial or operational stability of Supervised Entities).

Request-Based Information Sharing

21. To the extent appropriate to supplement informal consultations, upon written request, the Requested Authority intends to provide the Requesting Authority with the fullest possible cooperation in a timely manner and in line with the terms in this MoC in assisting the Requesting Authority's supervision of Supervised Entities, including assistance in obtaining and interpreting information that is relevant to ensuring compliance with the Laws and Regulations of the Requesting Authority and that is not reasonably otherwise available to the Requesting Authority. Such requests will be made pursuant to Item Four of this MoC, and the Authorities anticipate that such requests will be made in a manner that is consistent with the goal of minimizing administrative burdens.
22. Sharing of information in line with this MoC would be conducted to the extent reasonable and subject to any relevant statutory provisions, including those restricting disclosure. Following consultations between the Authorities, a request for assistance under this MoC may be denied:
- a) where the cooperation would require an Authority to act in a manner that would violate its applicable legal framework;
 - b) where a request for assistance is not falling within the scope of this MoC or is not made in accordance with the terms of this MoC;
 - c) on the grounds of public interest; or
 - d) where it would interfere with an ongoing investigation or jeopardise the proper performance of the tasks of the Authorities.

Where a request for assistance is denied, or where assistance is not available under domestic laws and regulations applicable in the jurisdiction of the Requested Authority, the Requested Authority will provide the reasons for not granting the assistance.

Assistance will not be denied based only on the fact that the type of conduct described in the request for assistance would not be a violation of laws and regulations applicable in the jurisdiction of the Requested Authority.

Where the Requested Authority presents objective grounds by reasons of which the request may not be addressed in whole or in part, the Authorities intend to consult in order to consider whether there are other forms of cooperation which could be provided to the Requesting Authority.

23. The information covered by Paragraph 21 includes, without limitation, information such as:
- a. Information responsive to requests from an Authority that would assist the Requesting Authority to verify the fitness of an applicant for authorization, recognition, qualification, license, registration, or exemption therefrom, pursuant to Laws and Regulations of the Requesting Authority;

- b. Information relevant to the financial and operational condition of a Supervised Entity, including, for example, financial resources, risk management, and internal control procedures;
- c. Relevant regulatory information and filings that a Supervised Entity is required to submit to an Authority including, for example, interim and annual financial statements and early warning notices; and
- d. Information contained in or relevant to regulatory reports prepared by an Authority, including, for example, examination reports regarding Supervised Entities.

Periodic Meetings

24. The Authorities may hold meetings periodically, as appropriate, to update each other on their respective functions and regulatory supervisory programs and to discuss issues of common interest relating to the supervision of Supervised Entities (e.g. contingency planning and crisis management, systemic risk concerns) and to review the adequacy of existing cooperative arrangements. Such meetings may be conducted by conference call or on a face-to-face basis, as appropriate.

ITEM FOUR: EXECUTION OF REQUESTS FOR INFORMATION

25. To the extent possible, both the request for information and the reply should be made in writing (which may be transmitted electronically) and primarily addressed to the relevant contact person(s) identified in Attachment. A request generally should specify the following:
- a. The information sought by the Requesting Authority;
 - b. A general description of the matter that is the subject of the request;
 - c. The purpose for which the information is sought;
 - d. The desired time period for reply and, where appropriate, the urgency thereof; and
 - e. To whom, if already known, onward disclosure of information provided to the requesting Authority is likely to be necessary as well as the need-to-know and the purpose of which such disclosure would serve.
26. If the Authorities become aware of an Emergency Situation, the Authorities will endeavor to notify each other as soon as possible of the Emergency Situation and communicate information as appropriate in the particular circumstances, taking into account all relevant factors, including the status of efforts to address the Emergency Situation and the fact that measures taken could trigger instability elsewhere in a Supervised Entity or its group or in the financial system of the Authority's jurisdiction. During an Emergency Situation, 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.

ITEM FIVE: ON-SITE VISITS

27. In fulfilling its supervision responsibilities over Supervised Entities, an Authority may need to conduct On-Site Visits to a Supervised Entity physically located in the jurisdiction of the other Authority. The Authorities will discuss and reach common recognition on the terms and modalities of the On-Site Visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the involvement of the Local Authority, if any, and the respective roles and responsibilities of the Authorities.
28. The Authorities will act in line with the following procedures before conducting an On-Site Visit.
- a. The Visiting Authority will provide advance notice to the Local Authority of its intent to conduct an On-Site Visit. The Authorities will consult with a view to reaching common recognition on the intended timeframe for and scope of the On-Site Visit.
 - b. When establishing the scope of any proposed On-Site Visit, the Visiting Authority will give due and full consideration to the supervisory activities of the Local Authority and any information that was made available or is capable of being made available by the Local Authority. Other than in exceptional circumstances, the Visiting Authority will consult with the Local Authority prior to notifying the Supervised Entity.
 - c. The Local Authority will endeavor to share any relevant reports, or information contained therein, related to examinations it may have carried out of the Supervised Entity.
 - d. The Authorities intend to assist each other regarding On-Site Visits, including providing information that is available prior to the On-Site Visit; cooperating and consulting in reviewing, interpreting, and analyzing the contents of public and non-public documents; and obtaining information from directors, senior management, employees of the Supervised Entities, or any other person, as permissible under the laws and regulations applicable in the jurisdiction of each Authority.
 - e. The Authorities will consult with each other, and the Local Authority may, if required by relevant Laws and Regulations or in its discretion, accompany or assist the Visiting Authority during the On-Site Visit, or the Authorities may conduct joint On-Site Visits where appropriate.
 - f. The Authorities will communicate with each other, including via meetings as appropriate, during the On-Site Visit. In circumstances where the Authorities jointly perform an On-Site Visit, they will give each other an opportunity to consult and discuss the findings arising from the On-Site Visit. In circumstances where only the Visiting Authority performs the On-Site Visit, the Visiting Authority informs the Local Authority of any major issues of the On-Site Visit upon its completion within a reasonable timeframe.

ITEM SIX: PERMISSIBLE USES OF INFORMATION

29. The Requesting Authority may use non-public information obtained under this MoC solely for fulfilling the supervisory responsibilities entrusted to it under the applicable laws and regulations and in accordance with this MoC.

30. The Authorities recognize that, while this MoC is not intended to gather information for enforcement purposes, subsequently an Authority may want to use the non-public information provided in line with this MoC for enforcement purposes. In cases where a Requesting Authority seeks to use non-public information obtained pursuant to this MoC for enforcement purposes, including in conducting investigations or taking enforcement actions, the Requesting Authority will carry out the following procedures:
- a. The Requesting Authority will submit to the Requested Authority a request for consent to use the information for enforcement purposes that will include:
 - (a) A description of the enforcement matters and the purpose for which consent is sought;
 - (b) A description of the non-public information for which consent is sought; and
 - (c) The laws and regulations of the Requesting Authority that may have been violated.
 - b. A request for consent for use for enforcement purposes may be denied by the Requested Authority 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.
31. Before using non-public information furnished under this MoC for any purpose other than those stated in Paragraphs 29 and 30, the Requesting Authority must first consult with and obtain the written consent of the Requested Authority for the intended use. If consent is denied by the Requested Authority, the Authorities will consult to 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.
32. The restrictions in this Item do not apply to an Authority's use of information it obtains directly from a Supervised Entity, whether during an On-Site Visit or otherwise.

ITEM SEVEN: CONFIDENTIALITY OF INFORMATION AND ONWARD SHARING

33. Except as set out in Paragraphs 35, 36 and 37, each Authority will keep confidential, to the extent permitted by the laws and regulations applicable in the jurisdiction of each Authority, non-public information shared under this MoC, requests made under this MoC, the contents of such requests, and any other matters arising under this MoC.
34. The Authorities confirm that laws and regulations, internal rules and other arrangements are in place to ensure that all officials dealing with, or having access to confidential information provided by the other Authority (including members of the Authority, employees, and any

external providers having access to confidential information) are bound by the obligations of professional secrecy in compliance with the applicable legal frameworks, including after the termination of their duties.

35. Except as set out in Paragraphs 36 and 37, the Requesting Authority must obtain the prior written consent of the Requested Authority before sharing non-public information received under this MoC with any non-participant to this MoC. The Requested Authority will take into account the level of urgency of the request and respond in a timely manner. During an Emergency Situation, prior consent may be obtained in any form, including orally, provided such communication is confirmed in writing as promptly as possible following such notification. If consent is denied by the Requested Authority, the Authorities will consult to discuss the reasons for withholding approval of such disclosure and the circumstances, if any, under which the intended disclosure by the Requesting Authority might be allowed.
36. In accordance with the laws and regulations, JFSA may be required to share non-public information obtained in line with this MoC with other governmental agencies in Japan or Bank of Japan, and BI may be required to share such information with other supervisory authorities in Italy or other prudential supervisory authorities in EU. In these circumstances and to the extent permitted by the laws and regulations applicable in the jurisdiction of each Authority, prior to the Requesting Authority sharing the non-public information the Requesting Authority will:
- a. notify the Requested Authority; and
 - b. provide adequate assurances to the Requested Authority concerning the use and confidential treatment of the information, including, as necessary, assurances that:
 - i. the information is required by the organizations set out above in this Paragraph for a purpose within the scope of their respective responsibility and as required by laws and regulations applicable in the jurisdiction of each Authority; and
 - ii. the information will not be shared with other third parties without getting the prior written consent of the Requested Authority.
- Prior to acting in line with the requirement in this Paragraph, the Requesting Authority intends to assert all appropriate legal exemptions or privileges with respect to such information as may be available.
37. Except as set out in Paragraph 36, to the extent possible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand for non-public information furnished under this MoC prior to complying with such demand. Prior to complying with the demand, the Requesting Authority intends to assert all appropriate legal exemptions or privileges with respect to such information as may be available.
38. The Authorities intend that the sharing or disclosure of non-public information, including deliberative and consultative materials, such as written analysis, opinions, or recommendations relating to non-public information that is prepared by or on behalf of an Authority, pursuant to the terms of this MoC, will not constitute a waiver of privilege or confidentiality of such non-public information.

39. Without prejudice to the foregoing paragraphs⁽¹⁾, mutual legal assistance in criminal matters remains subject to national laws and regulations and international or bilateral agreements between Italy and/or the European Union and Japan. The Authorities acknowledge the principle that the information obtained under this MoC may be used in criminal proceedings carried out by court or judge, including as evidence in criminal court, following the procedures prescribed in the relevant national and international laws and regulations for international mutual assistance in investigations. For the avoidance of doubt, this paragraph is not intended to, and does not, constitute any consensus for the Authorities to act beyond their supervisory remit under the applicable laws and regulations.

ITEM EIGHT: DATA PROTECTION

40. The Authorities acknowledge that the transfer of personal data under the terms of this MoC will take place in accordance with the relevant data protection legislation applicable to the respective Authorities.
41. Requested information will usually not include customer account information unless this is of particular relevance to the supervisory concern prompting the request as may be the case in relation to AML/CTF. If this is the case, the Authorities will endeavor to provide such customer account information to the extent permitted by the laws and regulations applicable in the jurisdiction of each Authority.
42. The Authorities acknowledge on the one hand that BI process personal data, including those contained in the information received from JFSA, in accordance with the applicable EU legal framework, notably with Regulation (EU) 2018/1725 and Regulation (EU) 2016/679, and on the other hand that JFSA processes personal data, including that contained in information received from BI in accordance with Act on Access to Information Held by Administrative Organs (Act No. 42 of 1999) and other relevant laws and regulations.
43. The Authorities will ensure that in the absence of a decision pursuant to Article 45(3) of Regulation (EU) 2016/679 or to Article 36(3) of Directive (EU) 2016/680, a transfer of personal data between them will comply with the conditions on transfers of personal data to third countries or international organizations as stipulated by their respective laws and regulations. This MoC can be supplemented by additional administrative arrangement on transfer of personal data should that be deemed necessary.

ITEM NINE: MODIFICATIONS AND PUBLICATION

44. The Authorities intend to periodically review the functioning and effectiveness of this MoC with a view, *inter alia*, to expanding or changing the scope or operation of this MoC should that be judged necessary. The Authorities may decide on such practical measures as may be necessary

⁽¹⁾ BI is under an obligation, deriving from its national law, to promptly report criminal offences to Italian criminal judicial authority or public prosecutor and to comply with requests to provide information and/or documents to said authorities.

to facilitate the implementation of this MoC. In case a material difference arises with respect to the interpretation of this MoC, the Authorities will consult with each other with a view to reaching a mutually acceptable interpretation. This MoC may be modified with the written consent of the Authorities.

45. This MoC (excluding the Attachment) may be made publicly available in full or part by any of the Authorities, at any time and in any manner including publication electronically on the websites of the Authorities.

ITEM TEN: EXECUTION AND DURATION

46. Cooperation under this MoC will commence on the date this MoC is signed by the Authorities.
47. Cooperation under this MoC will continue for the duration of 30-day period after an Authority gives written notice to the other Authority of its intention to terminate this MoC. If an Authority gives such notice, the Authorities will consult concerning the disposition of any pending requests. If consensus cannot be reached through consultation, cooperation will continue with respect to all requests that were made under this MoC before the expiration of the 30-day period until all requests are fulfilled or the Requesting Authority withdraws such request(s). In the event of expiration of duration of this MoC, information obtained under this MoC will continue to be treated in the manner prescribed under Items Six and Seven.
48. This MoC may be electronically signed. Any electronic signatures appearing on this MoC have the same effect as handwritten signatures for the purpose of validity. The Authorities may exchange copies of the MoC in written or electronic format.

Ignazio Visco
Governor
Banca d'Italia
Date:

Himino Ryoza
Commissioner
Financial Services Agency of Japan
Date: December 23, 2020
