
MEMORANDUM OF UNDERSTANDING BETWEEN THE FINANCIAL SUPERINTENDENCY OF COLOMBIA AND THE CENTRAL BANK OF THE BAHAMAS ON INFORMATION EXCHANGE AND MUTUAL COOPERATION FOR COMPREHENSIVE, CONSOLIDATED AND CROSS-BORDER SUPERVISION

1. Background

The following are the Parties to the present Memorandum of Understanding (“MoU”):

(i) The Financial Superintendency of Colombia (“SFC”) legally represented by Mr. Jorge Castaño Gutiérrez, Financial Superintendent. The SFC is a technical entity part of the Ministry of Finance with legal, administrative and financial autonomy, and own equity, pursuant to article 11.2.1.1.1. of Decree 2555 of 2010.

The SFC is the national supervisor of entities belonging to the banking, insurance, pension and securities market sector, financial holdings and financial conglomerates, under Colombian laws.

(ii) The Central Bank of The Bahamas (“CBOB”) legally represented by Mr. John A. Rolle, Governor, Central Bank of The Bahamas, in accordance with the Central Bank of The Bahamas Act, 2000.

The CBOB is the national supervisor of the entities that are part of the banking and trust sector and carrying on business in or from within The Bahamas.

Pursuant to numeral 8 of article 326 of the Financial Statute (“EOSF”) as per the inclusion set forth in article 45 of Law 510 of 1999 and article 22 of Law 964 of 2005, the SFC has the power to:

- Set mechanisms for information exchange with supervisory authorities located in other jurisdictions, in which Colombian supervised institutions operate or have subsidiaries or affiliates, or in which financial holdings of Colombian financial institutions are located.
- Provide confidential information to such authorities, with the commitment that the receiving authority will ensure that the information remains confidential.
- Allow, in visits or inspections carried out to its supervised institutions, the participation of persons or bodies of foreign authorities located in countries where entities linked to those subjected to the inspection and surveillance of the SFC, have their domicile, and provided that the same possibility is granted to the SFC.

In accordance with the provisions of Law 1870 of 2017, the SFC is empowered to exercise the inspection and supervision of the financial holding company and the comprehensive and consolidated supervision of the Financial Conglomerates. Consequently, the scope of this MoU in terms of the effects of the exchange of information and mutual cooperation for consolidated, comprehensive and cross-border supervision, will also be extended to the entities that are part of said Financial Conglomerates.

Pursuant to section 14 of the Banks and Trust Companies Regulation Act, 2000, the Central Bank of The Bahamas is empowered to perform the following:

- Set mechanisms for information exchange with supervisory authorities located in other jurisdictions, in which Bahamian supervised institutions operate or have subsidiaries or affiliates, or in which financial holdings of Bahamian financial institutions are located.
- Provide confidential information to such authorities, with the commitment that the receiving authority will ensure that the information remains confidential.
- Allow, inspections of its supervised institutions, by foreign authorities located in countries where entities linked to supervised institutions subjected to the inspection and surveillance of the CBOB, have their domicile, and provided that the same possibility is granted to the CBOB.

Thus, the SFC and the CBOB are legally enabled to execute the present MoU, on information exchange and mutual cooperation for comprehensive, consolidated and cross-border supervision.

This MoU demonstrates the commitment of both Parties to comply with the principles and standards issued by international bodies.

Based on the above considerations, the Parties agree as follows:

2. Basic Principles

The following principles shall guide the understanding and interpretation of all provisions and articles set forth below.

2.1. The Parties will cooperate with each other on the basis of mutual trust, reciprocity and mutual understanding for the supervision of Cross-border Establishments and Financial Conglomerates that operate in their jurisdictions.

2.2. The provisions set forth in this MoU do not intend to create legally binding obligations and under no circumstances will replace the law or regulation of any country.

Therefore, pursuant to this MoU, the Parties shall act in accordance with the law or regulation enforceable in each Party's jurisdiction.

2.3. All information and documents exchanged pursuant to this MoU will remain confidential as per the confidentiality regime set forth below in article 9.

3. Definitions

For the purposes of this MoU, the provisions set forth below shall have the following meaning:

3.1. Cross-border Establishment: Institution supervised by the Host Supervisor, having one or more of the following characteristics:

- a) Being an affiliate or subsidiary of an institution supervised by the Home Supervisor;
- b) Being the branch, agency or representative office of an institution supervised by the Home Supervisor or having signed a sales contract, to lend, perform or promote their products and/or services in the country of the Host Supervisor;
- c) Any institution which is subject to the supervision by any of the Parties by virtue of the direct or indirect investment of a Supervised Institution located in the Home Supervisor's jurisdiction;
- d) Any other for which a consolidated, comprehensive and cross-border supervision by the Home Supervisor is needed.

3.2. Current Law or Regulation: Includes:

- a) Any law, decree, circular or regulation applicable in Colombia or in The Bahamas, and
- b) Any rule, guideline, requirement or policy issued by or to be taken into account by one of the Parties or by any of the Parties' Supervised Institutions in their respective country.

3.3. Home Supervisor: is the supervisor located in Colombia or in The Bahamas responsible for the surveillance of a Supervised Institution.

3.4. Host Supervisor: is the supervisor located in Colombia or in The Bahamas responsible for the surveillance of a Cross-border Establishment.

3.5. Financial Conglomerate: Is one recognized or identified as such by the respective Party. It is a group of entities including two or more Supervised Institutions which operate in the country of one of the Parties, with a common controlling shareholder, exercising an activity supervised by them.

3.6. On-site Inspection: Is the inspection visit executed at the offices of a Supervised Institution or a Cross-border Establishment or an Institution that is part of a Financial Conglomerate by the Home Supervisor or the Host Supervisor, as appropriate, through duly authorized officials.

3.7. Supervised Institution: Institution supervised by any of the Parties, in accordance with the applicable regulation in its respective jurisdiction.

In the case of the SFC a Supervised Institution corresponds to any of the following: credit establishments; entities committed to electronic savings and payments; trust companies; general deposit warehouses; pension and severance fund management companies; PAYGO system management companies; insurance companies; insurance cooperatives; re-insurance companies; capitalization companies; professional risk management companies; insurance and reinsurance brokers; foreign exchange brokerage and special financial services companies; Central Bank (Banco de la República, in Spanish); representative offices of financial entities, reinsurance companies and institutions of foreign securities market; securities stock exchanges and their brokers; stock exchanges of agricultural, agro-industrial and other commodities products and goods, their brokers and institutions performing clearing and settlement of transactions carried out through it; securities centralized deposits; management companies of securities trading systems; management companies of clearing and settlement systems; central counterparty risk clearing houses; investment management companies; risk rating agencies; securitization companies; management companies of foreign exchange trading and registration systems and of foreign exchange clearing and settlement systems; and, in general, all institutions or activities that by the Current Law or Regulation are or become subject to inspection and surveillance of the SFC, or subject to its control.

In addition, pursuant to Law 1870 of 2017, the financial holding and the other supervised entities that make up the Financial Conglomerate are supervised entities.

Furthermore, branches of banks and of foreign insurance companies are deemed as financial institutions and are subject to the supervision of the SFC and they are under inspection and surveillance of the SFC.

In the case of the CBOB the following are considered Supervised Institutions: banks, trust companies, registered representatives, non-bank money transmission businesses, money transmission agents, payment service providers and co-operative credit unions.

4. Purpose

The purpose of the MoU is to establish mechanisms that ease the exchange of information and cooperation between the Parties on the Supervised Institutions and their Cross-border Establishments and the Institutions that are part of a Financial Conglomerate. The foregoing in order to facilitate the exercise of the powers of each of the Parties, promote the design and development of joint supervisory methodologies, and foster a proper and sound functioning of the Supervised Institutions, Cross-border Establishments and the Institutions that are part of a Financial Conglomerate.

5. Information Exchange

The Parties acknowledge that communication between the Home Supervisor and the Host Supervisor generates mutual benefits for the development of comprehensive and consolidated supervision and for the exercising of their functions. In this sense, The Parties shall endeavor to make their best efforts to perform the following activities.

5.1. Regarding the authorization process of Cross-border Establishments:

- a) Notify each other about applications for approval of incorporation or creation or for the direct or indirect acquisition of a Cross-border Establishment by an Institution Supervised by the Home Supervisor or any of its related or subordinate institutions.
- b) If requested, inform each other if the Supervised Institution complies with current law or regulations, and if is expected that, given its administrative structure and internal controls, such institution can appropriately handle the Cross-border Establishment.
- c) If requested, inform each other about the nature of their regulatory system, scope and development of their risk-based supervision and the scope of the comprehensive and consolidated supervision it will implement on the Supervised Institution and their Cross-border Establishments.
- d) If requested, inform each other about the suitability of potential directors or managers and relevant shareholders or beneficial owners of the Cross-border Establishment.

5.2. Regarding the supervisory activities over Supervised Institutions and Cross-border Establishments:

- a) Timely inform each other about significant events regarding the operations of Supervised Institutions and Cross-border Establishments, as well as changes of the relevant shareholding structures and beneficial owners of the Supervised Institutions.
- b) Provide, if requested, financial information of Cross-border Establishments. Such information may include individual and consolidated financial statements with their notes, detail of the investment portfolio, indicators and/or risk and profitability reports, among any other information.
- c) Answer the information requests of their respective national regulatory systems and report major changes in these.
- d) Inform each other, as soon as and to the extent possible, about any event that has the possibility of endangering the stability of Cross-border Establishments or of Supervised Institutions.
- e) Provide relevant information that may be required within their supervisory processes. The following may be included: the results of on-site inspections, information related to the quality of the management of risks; sanctions and measures that have been imposed in the past two (2) years; requirements and orders made by the respective Supervisor, causing an impact on the financial statements of a Supervised Institution, the Cross-border Establishment, or on its normal operation; changes in the structure of ownership or variation in the beneficial owners of the Supervised Institutions.
- f) Provide each other with the additional information requested pursuant to this MoU.

5.3. Regarding the supervisory activities over Financial Conglomerates and its Financial Holding:

- a) The exchange of information foreseen in the activities indicated in sections 5.1. and 5.2.
- b) In the case of the authorization of incorporation or acquisition of entities in the host country by a Financial Conglomerate and / or its financial holding company, the Home Supervisor must provide the necessary support for the applicant Supervising Institution to certify before the Host Supervisor the equivalence in matters of prudential regulation and comprehensive and consolidated supervision with the standards of the host jurisdiction.
- c) Timely inform each other about the operations carried out within the Conglomerate, when these may have a material impact on the performance and strength of the

Supervised Institutions and / or of the Cross-border Financial Establishments and/or Financial Conglomerates.

- d) If requested, inquire about the levels of exposure and concentration of risks of the entities that make up the Financial Conglomerate with its related parties.
- e) Provide information about the incorporation of new Cross-border Establishments of the respective Financial Conglomerate, whether they are consolidated or not.
- f) Submit, upon request, a report that includes a brief overview of the institution(s) that make up the respective conglomerate, linked institutions, relevant shareholders, beneficial owners, and main aspects relative to its management and the way they comply with the obligations and requirements of the supervisor, and of any other aspects considered relevant.
- g) Providing, on a timely basis and whenever required, support for intermediation with other local supervisory authorities that are in charge of the supervision of the entities that make up the Financial Conglomerate, in order to meet information requirements made by the other Party.

Information requests shall be delivered in writing to the persons listed in Annex A of this MoU. Under exceptional circumstances where the conditions demand so, information request may be delivered by any other means but must be confirmed in writing as soon as possible.

Parties will inform each other about changes of the persons listed in Annex A as soon as possible.

6. Crisis management

Parties agree to make their best efforts to set forth:

6.1. The activities and protocols to facilitate the timely and effective management of the crisis events or circumstances where Supervised Institutions and/or Cross-border Establishments or Financial Conglomerates are involved or may be affected.

6.2. The cooperation that will be provided due to disturbances related to the monetary or financial markets or markets infrastructures (including payment infrastructures), with possible cross-border effects.

6.3. The cooperation that will be given when events arise within the Financial Conglomerate that may result in a contagion effect that jeopardizes its stability, strength and / or reputation, or that of any of the entities that comprise it.

6.4. The cooperation between the Parties will take the required form given the specific characteristics of the crisis (such as developing contingency and restructuring plans, as well as recovery measures, among others). It will also take into account the powers and functions of each of the Authorities in order to act with the needed flexibility.

6.5. The way in which the Parties shall notify other supervisory authorities and information to be shared.

7. On-site Inspections

Regarding onsite inspections, the Parties agree:

7.1. The Home Supervisor should assess any information, report or examination made available by the Host Supervisor.

7.2. The Home Supervisor shall notify the Host Supervisor, at least thirty (30) calendar days in advance of their intention to assess or inspect a Cross-border Establishment or an Institution that is part of a Cross-border Conglomerate and will indicate the purpose and the scope of the inspection to be carried out, as well as the information required to conduct it.

7.3. Both the Host Supervisor and the Home Supervisor may participate in On-site Inspections as per law or regulation of the jurisdiction where the On-site inspection will take place.

7.4. The Home Supervisor and Host Supervisor will discuss the initial findings after the On-site inspection.

7.5. Prepare separate reports resulting from the On-site inspection of the Cross-border Establishment and will make them available to the other supervisor.

7.6. The Home Supervisory inspection team members must sign a confidentiality commitment in accordance with the provisions of Annex B of this MoU, prior to beginning an On-site Inspection visit.

7.7. Provide assistance to the requesting Party in order to conduct visits to the institutions under its supervision providing services or data processing to the Cross-border Establishments or the Institutions that are part of a Financial Conglomerate, under the

supervision of the respective Party, in accordance with the legislation or regulation in force in each jurisdiction.

8. Illegal Activities

The Parties shall endeavor to make their best efforts to cooperate with the other Party to provide assistance in case there is suspicion that a Supervised Institution or a Cross-Border Establishments are carrying out illegal activities or that are linked to activities related to asset laundering and the financing of terrorism.

9. Confidentiality

With respect to the confidentiality of the information exchanged, the Parties agree that:

9.1. Information will be shared if possible and the exchange will be subject to compliance with the legislation or regulation in force in each jurisdiction. In this respect, the request for information will be previously evaluated, validating the pertinence of its delivery and in any case may be denied for reasons of public interest, national security, or when its disclosure may interfere with an on-going investigation, among others.

9.2. Any confidential information received under this MoU must only be used for purposes of supervision. Each Party shall maintain the confidentiality of the information received, agreeing not to disclose such information except when it is necessary to carry out its legal responsibilities of supervision or when it is legally bound to do so with the commitment that the third party receiving the information retains confidentiality. This situation must be notified immediately to the Party that originated it, indicating the reasons why it is required to disclose.

9.3. In case of receiving a request for confidential information from third parties, without having a legal obligation to deliver the information, or when the disclosure of said information is not necessary to carry out the legal responsibilities of supervision, a Party must consult and obtain prior written consent of the Party that supplied the information who may refuse to permit further disclosure. The Party that supplied the confidential information may establish conditions for its further disclosure, including that the third party is obliged to keep its confidentiality.

10. Knowledge Sharing and Technical Assistance

Pursuant to this MoU, the Parties may provide each other with mutual technical assistance, exchange information on technical supervision and regulation of their

jurisdictions, promote cooperation through visits for information purposes to their respective headquarters, supervised institutions or other authorities or third parties.

Likewise, the Parties may exchange personnel to carry out internships, for which they must notify their intention at least thirty (30) calendar days in advance and indicate the purpose and scope of the internship.

11. Continuous Coordination

The Parties shall adopt mechanisms to establish a permanent communication that enables them to deal with issues related to the Supervised Institutions, Cross-border Establishments and Financial Conglomerates.

Where appropriate, Parties may organize meetings in order to solve issues of relevance related to the supervision of a Supervised Institution or Cross-border Establishment or Financial Conglomerates.

12. Implementation Costs of the MoU

Each Party will cover the costs and expenses incurred for On-site Inspections, internships, and for generating the requested information. All other expenses will be covered as per agreement of the Parties.

13. Dispute Resolution

The Parties execute this MoU based on the principle of good faith and in the event of dispute or claim concerning the interpretation, enforcement or eventual breach of the MoU, it will be solved by mutual agreement between the Parties.

14. Entry into Force and Amendments

14.1. This MoU shall enter into force on the date of the last signature and will remain in force indefinitely unless one of the Parties decides to declare its termination, by written communication addressed to the other Party, with at least thirty (30) calendar days of notice.

14.2. The present MoU may be amended by mutual consent of the Parties. Amendments shall be made in writing, specifying the date of entry into force.

14.3. Once the present MoU is finished, the confidentiality provisions will continue in force for any information provided based on this MoU prior to its termination.

14.4. The early termination of the present MoU will not affect the conclusion of the cooperation actions that had been initiated while it was in force.

14.5. The Parties agree to exchange identical copies of this document in the English language, each copy being considered an original, signed by the persons duly authorized by the respective Parties to execute this document on their behalf.

**For the Financial Superintendency of
Colombia**

For the Central Bank of The Bahamas



JORGE CASTAÑO GUTIÉRREZ
Financial Superintendent

Date: 03 FEB 2020



JOHN A. ROLLE
Governor

Date: 5/ Feb. 2020

ANNEX A

CONTACT DETAILS

FINANCIAL SUPRINTENDENCE OF COLOMBIA

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CENTRAL BANK OF THE BAHAMAS

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ANNEX B

CONFIDENTIALITY COMMITMENT

I _____, hereby agree to maintain the confidentiality of all information obtained based on the On-site Inspection approved by _____, regarding the Cross-border Establishment, _____, constituted in _____, authorized to carry out _____ for purposes of the Consolidated Supervision of _____.

By signing this commitment, I understand that any breach of its terms or unauthorized disclosure of confidential information, constitutes a violation of the Memorandum of Understanding between the Financial Superintendency of Colombia and the Central Bank of The Bahamas on the information exchange and mutual cooperation for Consolidated and Cross-Border Supervision, and constitutes a violation of the rules that establishes the information confidentiality in each jurisdiction.

Date: _____

Signature: _____



