

CONFIDENTIALITY AGREEMENT
between
the Swiss Financial Market Supervisory Authority FINMA
and
the Australian Prudential Regulation Authority (APRA)
for the supervision of banks and investment firms

The Swiss Financial Market Supervisory Authority (FINMA) and the Australian Prudential Regulation Authority (APRA) enter into this agreement to protect the confidentiality of information received from each other for the supervision of banks and investment firms.

Article 1 – Definitions

For the purpose of this agreement:

- a) "Authority" or "Authorities" means FINMA and/or APRA, including their possible successor(s);
- b) "Confidential Information" means any non-public information, be it written or spoken, and regardless of its format (electronic, paper, etc.), which the Authorities receive from each other within the scope of this agreement;
- c) "Third Party" means any person that is not one of the Authorities, including the public.

Article 2 – General provisions

- a) The Authorities acknowledge that this agreement is a bilateral arrangement applicable to information received from each other for the supervision of banks and investment firms. To the extent it overlaps with more specific arrangements which both Authorities are a party to (e.g. the IOSCO MMoU), those arrangements should prevail.
- b) The Authorities acknowledge that this agreement is not legally binding.

Article 3 – Use of information

The Authorities confirm that they will use Confidential Information only for implementing financial market law. Any other use of Confidential Information will require the prior written consent of the other Authority.

Article 4 – Confidentiality

- a) The Authorities confirm that they will treat Confidential Information as confidential and not disclose it to Third Parties, except if in accordance with Article 5.
- b) The Authorities confirm that in accordance with the law in their jurisdiction:
 - all persons dealing with or having access to Confidential Information are subject to an obligation of professional or official secrecy;
 - the professional or official secrecy requirements apply to any person currently or previously employed by or acting on behalf of them; and
 - any passing on of Confidential Information in breach of official or professional secrecy can have administrative and/or penal consequences.

Article 5 – Disclosure

- a) The Authorities confirm that Confidential Information may solely be disclosed to Third Parties with the prior written consent of the other Authority and only for the purpose of implementing financial market law.
- b) Where an Authority is legally required to disclose Confidential Information to Third Parties, it will notify the other Authority prior to the disclosure. In the event that a prior notification is not permitted by law, the disclosing Authority will inform the other Authority as soon as permitted after the disclosure.
- c) Whenever a prior written consent to a disclosure of Confidential Information is not given, the Authority that is legally required to disclose the information to a Third Party should make its best efforts to resist disclosure.
- d) In case of any disclosure to a Third Party, the disclosing Authority endeavours to ensure that the Third Party will use the Confidential Information disclosed only for the purpose of implementing financial market law and that it will maintain its confidential status, unless the other Authority consents in writing to another kind of treatment.

Article 6 – Notification

The Authorities will inform each other as soon as possible about any circumstances (including amendments of the law they are subject to), which may affect their ability to comply with the commitments made in this agreement.

Article 7 – Entry into force, amendment and termination

- a) This agreement will enter into force when signed by both Authorities.
- b) This agreement may be amended by written consent and signature by both Authorities.
- c) Each Authority may terminate this agreement by giving written notice to the other Authority. In the event of termination, the Authorities should continue to treat Confidential Information already received in accordance with this agreement.

For the Swiss Financial Market Supervisory Authority FINMA

Signature: _____

Jan Bloechli
Head of Banks division and
Member of the Executive Board

Date: 5 August 2019

Signature: _____

Rupert Schaefer
Head of Strategic Services division and
Member of the Executive Board

Date: 5 August 2019

For the Australian Prudential Regulation Authority (APRA)

Signature: _____

Name: CLARE GIBNEY
Function: GM, BANKING
SPECIALISED INSTITUTIONS DIVISION
Date: 23 August, 2019