



Memorandum of Understanding

Concerning co-operation in banking and insurance supervision

between

The Australian Prudential Regulation Authority (APRA)

and

Dubai Financial Services Authority (DFSA)

(together, “the Authorities”)

Background

1. This Memorandum of Understanding (MOU) sets out a framework for co-operation between the Authorities in areas of common interest where co-operation is essential for the effective and efficient performance of their respective financial regulation functions.
2. This MOU is a statement of intent and does not create any legally binding obligations on the Authorities.
3. This MOU does not affect the ability of the Authorities to otherwise request:
 - a) documents, information or assistance from each other; or
 - b) documents, information or evidence from individuals;

under relevant laws in their respective jurisdictions, such as, in Australia, section 6 of the *Mutual Assistance in Business Regulation Act 1992*.

For the purpose of this MOU:

Banking includes any entity which is not called a “bank” but which conducts banking business.

Cross-border establishment means a branch, subsidiary or any other banking or insurance entity or group within one jurisdiction which falls under the consolidated or group-wide supervision (or prospective supervision) responsibility of the other jurisdiction, including where the Authorities are both Host-jurisdiction Authorities.



Host-jurisdiction Authority means the Authority which supervises a branch, representative office, subsidiary or sub-group of an entity (the parent entity) which is supervised in another jurisdiction.

Home-jurisdiction Authority means the Authority which supervises the parent entity.

The Authorities

4. APRA is the national prudential regulator in Australia, established on 1 July 1998 under the *Australian Prudential Regulation Authority Act 1998*. APRA administers legislation providing for the supervision of authorised deposit-taking institutions (banks, building societies and credit unions), insurance/reinsurance companies, friendly societies and superannuation funds authorised to operate in Australia.
5. The DFSA was established under Dubai Law No. 9 of 2004 and is the independent regulator of financial and ancillary services conducted in or from the DIFC, a purpose-built financial free-zone in Dubai, the United Arab Emirates (UAE). In addition to insurance and reinsurance, the DFSA's regulatory mandate includes asset management, banking and credit services, securities, collective investment funds, custody and trust services, commodities futures trading, Islamic finance, an international equities exchange and an international commodities derivatives exchange.

General principles

6. The Authorities expect, within the framework of this MOU, to provide each other with all reasonable assistance to promote the safe and sound functioning of entities regulated by the Authorities, subject to domestic laws and the Authorities' overall policies.
7. The Authorities expect that requests for assistance or information will be made in writing by staff members of the Authorities whom the Authorities nominate from time to time as their respective contact officers for the purpose of sharing information under this MOU. Requests for assistance or information will be addressed to the Authorities' contact persons named in Annexure A. However, where the Authorities perceive a need for expedited action, the Authorities may make a request for information in any form, but should subsequently confirm the request in writing, within 10 business days. The Authorities will endeavour to provide information to each other as quickly as possible.
8. The Authorities recognise that the provision of information may be denied on the grounds of national security or when disclosure would interfere with an ongoing investigation. Where a request for information is denied, the Authority that made the request expects that it will be provided with the reasons for not providing the information. Each Authority may impose conditions on the use of information provided to the other Authority.



9. The Authorities expect each other to mark all documents provided under this MOU, “CONFIDENTIAL - PROVIDED UNDER MEMORANDUM OF UNDERSTANDING BETWEEN APRA AND DFSA”.

Confidentiality

10. The Authorities understand that they will use their best endeavours to preserve the confidentiality of the information received under this MOU. In this regard, staff members of the Authorities will hold confidential all information obtained in the course of their duties. Any confidential information received from either of the Authorities is to be used exclusively for lawful supervisory purposes.
11. An Authority may disclose information received from the other Authority under this MOU to a third party in the following circumstances:
- a) where the Authority is legally compelled to do so, for example to a Court or Royal Commission;
 - b) where the Authority receives a legally enforceable demand, for example under Freedom of Information laws; and
 - c) in other circumstances permitted by law.
12. When an Authority is legally compelled to disclose information provided under this MOU to a third party, the Authority which is under compulsion is expected to promptly notify the other Authority, indicating what information it is compelled to disclose and the circumstances surrounding its release. The Authorities expect each other to use their best endeavours to preserve the confidentiality of the information to the extent permitted by law, if requested to do so.
13. Where an Authority wishes to disclose information received under this MOU to a third party, but is not compelled to do so, the Authority is expected to notify the other Authority to obtain its consent. It will not disclose the information if consent is refused. Where consent is obtained, the Authority disclosing the information will impose on the third party any conditions which have been made by the other Authority concerning the use of that information. In any event, as far as possible, the party disclosing the information will impose a condition on the third party that it keep the information confidential, and that it will not further disclose the information without first obtaining consent.



Cross-border establishments

14. The Host-jurisdiction Authority is expected to notify the Home-jurisdiction Authority without delay of applications for approval to establish a Cross-border establishment or to make an acquisition in the jurisdiction of the Host-jurisdiction Authority.
15. Upon request by the Host-jurisdiction Authority, the Home-jurisdiction Authority is expected to inform the Host-jurisdiction Authority whether the applicant entity is in substantial compliance with the laws and regulations administered by the Home-jurisdiction Authority and whether the entity may be expected to manage the Cross-border establishment in an orderly manner, given the Home-jurisdiction Authority's knowledge of the entity's administrative structure and internal controls. The Home-jurisdiction Authority is also expected, upon request, to assist the Host-jurisdiction Authority by verifying or supplementing any information submitted by the applicant entity.
16. Upon request, the Home-jurisdiction Authority is expected to inform the Host-jurisdiction Authority about the nature of its regulatory system and the extent to which it will conduct consolidated or group-wide supervision over the applicant entity. Similarly, the Host-jurisdiction Authority is expected to indicate the scope of its supervision and indicate any specific features that might give rise to the need for special arrangements.
17. To the extent permitted by law, the Authorities expect to share available information on the fitness and propriety of prospective directors, managers and relevant shareholders of a Cross-border establishment.
18. The Home-jurisdiction Authority does not expect that it will be prevented from conducting on-site inspections of Cross-border establishments.
19. Before deciding whether an on-site inspection is necessary, the Home-jurisdiction Authority may request and review any relevant examination or other supervisory reports prepared by the Host-jurisdiction Authority.
20. The Home-jurisdiction Authority is expected to notify the Host-jurisdiction Authority of plans to inspect or examine a Cross-border establishment or to appoint a third party to conduct an examination on its behalf, and to indicate the purposes and scope of the inspection or examination. The Host-jurisdiction Authority reserves the right to accompany the Home-jurisdiction Authority on such an inspection or attend any examination. The Authorities expect to keep each other informed on the results of any inspections in a timely manner. If the parent entity has been inspected along with its Cross-border establishment in the other jurisdiction, the Home-jurisdiction Authority is expected to provide the Host-jurisdiction Authority with a summary report on material findings that are relevant to the Cross-border establishment.



Ongoing supervision

21. The Authorities intend to provide relevant information to each other with regard to their involvement in banking or insurance supervision, in a timely and reasonable manner. The Authorities expect to inform each other of material administrative penalties imposed, or other formal enforcement action taken against any Cross-border establishment, its management or, in cases of systemic impact, its shareholders. The Authorities expect that they will give prior notification of such action to each other, as far as it is practicable and subject to applicable laws.
22. The Authorities intend to co-operate closely when either Authority identifies suspected financial crime activities in supervised entities and transactions. Financial crimes include money laundering, unauthorised banking, investment or insurance business and all other breaches of the laws governing financial institutions and insurance entities that are regulated by either Authority.

Regulatory policy development

23. The Authorities expect to respond to each other's requests for information on their respective national regulatory systems and inform each other about major changes, including those that have a significant bearing on the activities of Cross-border establishments.

General

24. The Authorities expect to conduct meetings as often as appropriate to discuss issues concerning banking or insurance entities, or groups that maintain Cross-border establishments and to review the effectiveness of cooperation arrangements. The Authorities also intend, where practical, to promote their co-operation by visits for information purposes.

Unless otherwise notified, contact will be between the principal contact persons set out in Annexure A.

25. Each Authority expects to bear its own expenses incurred in the implementation of this MOU. If it appears that an Authority is likely to incur substantial costs in responding to a particular request for information, the Authority may approach the other Authority with a view to negotiating a cost-sharing arrangement in relation to the provision of that information.



Australian Prudential Regulation Authority

On behalf of:

The Australian Prudential Regulation Authority

By Wayne Byres
Chairman

Dated: 30/7/15

The Dubai Financial Services Authority

By Ian Johnston
Chief Executive

Dated: 30/7/15