

CIIRC



 **APRA**

MEMORANDUM OF UNDERSTANDING

BETWEEN

**THE CHINA INSURANCE REGULATORY COMMISSION
OF
THE PEOPLE'S REPUBLIC OF CHINA**

AND

**THE AUSTRALIAN PRUDENTIAL REGULATION AUTHORITY
OF
THE COMMONWEALTH OF AUSTRALIA**

REGARDING INSURANCE REGULATORY COOPERATION

2015

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CHINA INSURANCE REGULATORY COMMISSION
AND
THE AUSTRALIAN PRUDENTIAL REGULATION AUTHORITY**

The China Insurance Regulatory Commission (CIRC) and the Australian Prudential Regulation Authority (APRA), recognise the increasing international activity in insurance markets and the corresponding need for mutual co-operation between the relevant supervisory authorities as a means for improving their effectiveness in administering and enforcing the insurance laws of their respective jurisdictions.

This Memorandum of Understanding (Memorandum) is a statement of intent and does not create any legally binding obligations on the Authorities.

I. Definitions

1. For the purposes of this Memorandum, the terms set out below have the assigned meanings unless the context requires otherwise:
 - (a) **Authority** means:
 - (i) For China, the China Insurance Regulatory Commission (CIRC); or
 - (ii) For Australia, the Australian Prudential Regulation Authority (APRA).
 - (b) **Requested Authority** means an Authority to whom a request under this Memorandum is addressed.
 - (c) **Requesting Authority** means an Authority making a request under this Memorandum.
 - (d) **Laws, regulations and requirements** means the provisions of the laws, regulations and requirements enacted in China and Australia, for the purpose of regulating the business of insurance.

- (e) **International Establishment** means a branch, a subsidiary or any other 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-country Authorities.
- (f) **Host-country 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 country.
- (g) **Home-country Authority** means the Authority which supervises the parent entity.

The Authorities

- 2. APRA is the national prudential regulator in Australia, established on 1 July 1998 under the Australian Prudential Regulation Act 1998. APRA administers legislation providing for the supervision of deposit-taking institutions (banks, building societies and credit unions), insurance/reinsurance companies, friendly societies and superannuation funds authorised by APRA to operate in Australia.
- 3. CIRC is a ministerial institution directly under the State Council of the People's Republic of China. CIRC is authorised by the State Council to conduct administration, supervision and regulation of the Chinese insurance market to ensure the proper operation, legality and stable development of the insurance industry.

II. Objectives

- 4. This Memorandum sets forth the basis upon which CIRC and APRA propose to provide for mutual assistance and the exchange of information for the purpose of facilitating the performance of insurance regulatory functions under the respective laws, regulations and requirements of China and Australia. The purpose of the Memorandum is to help insurance supervisors maintain efficient, fair, safe and stable insurance markets in China and Australia for the benefit and protection of policyholders, by providing a framework for co-operation, increased mutual

understanding, and the exchange of information to the extent permitted by laws, regulations and requirements.

5. The Authorities intend to:

(a) use their best endeavors to ensure that the fullest mutual assistance is provided within the terms of this Memorandum; and

(b) engage in consultations, as appropriate, on mutually agreeable approaches designed to enhance the integrity and efficiency of their respective insurance markets and the exercise of insurance market supervisory functions.

6. This Memorandum does not modify or supersede any laws, regulations or requirements in force in, or applying to, CIRC or APRA, or the jurisdictions in which they are authorised to regulate the business of insurance. Nor does it create directly or indirectly any enforceable rights.

III. Scope

7. The Authorities expect, within the framework of this Memorandum, to provide each other with all reasonable assistance to promote the safe and sound functioning of regulated entities, subject to domestic laws and the Authorities' overall policies.

IV. Requests for Information and Assistance

8. Any request for information or assistance made under this Memorandum will, wherever possible, be in writing, but in cases of urgency it may be oral and confirmed in writing within 10 days.

9. A request for information or assistance made under this Memorandum will be addressed to one of the Requested Authority's contact points listed in Annexure A, or that individual's nominee.

10. In deciding whether to accept or decline a request, the Requested Authority may, in

particular, take account of:

- (a) matters specified by the laws and regulations in the country or jurisdiction of the Requested Authority;
 - (b) whether the request involves an assertion of regulatory jurisdiction not recognized by the country of the Requested Authority;
 - (c) whether it would be contrary to the public interest of the Requested Authority to give the assistance sought; and
 - (d) the resources available to the Requested Authority to deal with the request.
11. 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. Conditions may also be imposed on the use of information provided to the Authority making the request.
12. The Authorities expect each other to mark all documents received under this Memorandum.

“Confidential – Provided under Memorandum of Understanding between APRA and CIRC”.

V. Permissible Uses and Confidentiality

13. Compliance with the obligation of professional secrecy by all employees who receive confidential information from the other Authority in the course of the implementation of the Memorandum is a necessary condition for a successful cooperation between the Authorities. The Authorities agree that any confidential information shared through these arrangements will be used only for lawful supervisory purposes. To the extent permitted by law, the Authorities will maintain the confidentiality of all

information received through these arrangements from each other.

14. The Authorities may disclose information received from each other under this Memorandum to a third party in the following circumstances:

- (a) where they are legally compelled to do so, for example to a Court or Royal Commission;
- (b) where they receive a legally enforceable demand, for example under Freedom of Information laws; and,
- (c) in other circumstances where they are compelled by their law.

15. When an Authority is legally compelled to disclose information provided in accordance with this Memorandum to a third party, the Authority is expected to notify the other Authority in advance, indicating what information it is compelled to release and the circumstances surrounding its release. The Authorities expect each other to use their best endeavors to preserve the confidentiality of the information to the extent permitted by law, if requested to do so.

16. When an Authority wishes to disclose information received under this Memorandum to a third party, but is not compelled to do so, the Authority is expected to notify the other Authority to obtain its consent. If the Authority providing the information requests, the Authority which has received the information is expected, in consultation with the former, to consider imposing conditions on the release and subsequent use of the information. In any event, so far as possible, the Authority releasing the information to a third party is expected to impose on that third party a condition that the information be kept confidential and not be further released without its consent.

International Establishments

17. Upon request by the Host-country Authority, the Home-country Authority is expected to inform the Host-country Authority whether the applicant entity is in substantial compliance with the laws and regulations administered by the Home-country Authority and whether the entity may be expected to manage the

International Establishment in an orderly manner, given the Home-country Authority's knowledge of the entity's administrative structure and internal controls. The Home-country Authority is also expected, upon request, to assist the Host-country Authority by verifying or supplementing any information submitted by the applicant entity.

18. Upon request, the Home-country Authority is expected to inform the Host-country 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-country 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.
19. 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 an International Establishment.

Ongoing Supervision

20. The Authorities intend to provide relevant information to each other with regard to their involvement in 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 International Establishment, its management or, in cases of systemic impact, its shareholders.
21. 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 insurance business and all other breaches of the laws governing insurance entities that are regulated by either.

Regulatory Policy Development

22. 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 International Establishments.

General

23. The Authorities expect to conduct meetings as often as appropriate to discuss issues concerning insurance entities, or groups that maintain International 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.

VI. Consultation and Waiver

24. CIRC and APRA will keep the operation of this Memorandum under continuous review and consultation with each other with a view to improving its operation and resolving any matters.
25. Where the specific conduct set out in a request for assistance may constitute a breach of a law, regulation or requirement in both the territory of the Requesting Authority and the Requested Authority, the Authorities will consult in order to determine the most appropriate means for each Authority to provide assistance. No provision shall be interpreted as superseding, amending, revoking or otherwise changing any law relating to CIRC or APRA.

VII. Contact Points

26. All communications between the Authorities should be between the principal points of contact listed in Annexure A, unless otherwise agreed.

VIII. Costs

27. Each Authority expects to bear its own expenses incurred in the implementation of this Memorandum. 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.

IX. Entry into Effect

28. This Memorandum will be effective from the date of its signature by CIRC and APRA.

29. This Memorandum is signed by CIRC and APRA in duplicate, in English and Chinese versions. Both English and Chinese versions of this Memorandum are equally official.

On behalf of:

China Insurance Regulatory Commission

Australian Prudential Regulation Authority

Chen Wenhui /

Vice Chairman

Date: 2015. 6. 28

Ian Laughlin

Deputy Chairman

Date: 12 JUNE 2015