FINRA

Financial Industry Regulatory Authority

Memorandum of Understanding

[redacted]

3. “**Cross-Border Regulated Entity**” means (i) a Regulated Entity that is regulated by both Authorities; or (ii) a Regulated Entity which is regulated in the jurisdiction of one Authority that is a Related Corporation of another Regulated Entity which is regulated in the jurisdiction of the other Authority.

[redacted]

seeking urgently to manage a circumstance where a Cross-Border Regulated Entity

[redacted]

is or can reasonably be expected to be financially impaired or the operations of the Cross-Border Regulated Entity will or is likely to be affected adversely resulting in a significant increase in systemic risk or potential damage to financial stability and the wider financial system.

5 “**Information**” means information in the public domain or publicly available and Non-Public Information as defined below.

6 **“Laws and Regulations”** means the legal and regulatory provisions that each Authority administers in its respective jurisdiction, and any other provision which is within the competence of or applicable to each Authority, including all applicable laws or regulations pertaining to privacy and data security.

[redacted]

8. "**Person**" means a natural person or legal person, or an unincorporated entity or association, including partnerships, and corporations.

9. **"Personal Data"** means any Non-Public Information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural, or social identity.

10. "**Regulated Entity**" means a financial market participant or other entity that is regulated by one of the Authorities.

11. "**Related Corporation**" means two or more corporations where one of them is (i) a holding company of the other; (ii) a subsidiary of the other; or (iii) a subsidiary of the

ARTICLE TWO: GENERAL PROVISIONS

12. This MOU is a statement of intent to consult, cooperate and exchange Information in connection with the supervision and oversight of Cross-Border Regulated Entities in Hong Kong and the United States, in a manner consistent with, and permitted by, the respective laws and requirements that govern the Authorities in

MOU. However, the provisions set forth in Articles Six and Seven shall be binding upon the Authorities and survive the termination of the MOU.

3. This MOU does not limit an Authority to taking solely those measures described [redacted]

affect any right of an Authority to communicate with or to obtain Information or documents from any Person subject to its jurisdiction that is located in the jurisdiction of the other Authority. However, an Authority should communicate with [redacted]

2. This MOU is also a statement to support the Authorities' participation in supervisory

[redacted]

with respect to Cross-Border Regulated Entities will also be achieved through such pending regulatory changes that may have a significant impact on the operations, [redacted]

6 **Provision of Unsolicited Information**. Where an Authority has Information which will assist or enable the other Authority in the performance of its supervisory [redacted]

minutes, senior management responsibility maps, business model analysis and risk profiles.

8. **Regular/ Periodic Liaison.** To facilitate each Authority in performing its respective supervisory functions, the Authorities intend to liaise with each other concerning the following matters from time to time as far as their Laws and Regulations permit, including, but not limited to, supervisory colleges.

[redacted]

i. Any updates on their respective functions, and regulatory oversight programs, including supervisory priorities and 'best practices' on a regular basis. This may also include, but is not limited to, discussions on conduct risk and control culture, risk trends, thematic and/or cross-sector issues, contingency planning/ crisis management and systemic risk concerns; and
ii. General supervisory developments where considered necessary.

ARTICLE FOUR: CROSS-BORDER ON-SITE VISITS

[redacted]

(a) When establishing the scope of any proposed visit, the Authority seeking to conduct the visit will give due and full consideration to the supervisory activities of the other Authority and any Information that was made available or is capable of being made available by that Authority.

(b) If so requested, the Requested Authority will endeavor to explain or elaborate on the contents of written Information to the Requesting Authority with a view to [redacted]

2. [redacted]

(a) The Information sought by the Requesting Authority, including specific questions to be asked and an indication of any sensitivity about the request.

(b) A concise description of the facts underlying the request and the supervisory purpose for which the Information is sought, including the applicable Laws and Regulations and relevant provisions behind the supervisory activity; and

2

(c) The desired time period for reply and, where appropriate, the urgency thereof.

ARTICLE SEVEN – CONFIDENTIALITY OF INFORMATION AND ONWARD SHARING

In Emergency Situations, the Authorities will endeavor to notify each other of the Emergency Situation and communicate Information to the other as would be appropriate in the particular circumstances, taking into account all relevant factors, including the status of efforts to address the Emergency Situation. During received under this MOU to any third party for any purpose unless it has obtained the prior consent of the other Authority.

(b) In the event FINRA requests any Non-Public Information which is not already in [redacted]

i. FINRA agrees to provide a written statement to the SFC under Section 186(2D) of the Securities and Futures Ordinance ("SFO") confirming that FINRA has not and will not be able to:

a. obtain the requested Non-Public Information by any other reasonable means; and

[redacted]

and

2. assist in preserving the confidentiality of the Non-Public Information by taking all appropriate measures as may be available (including but not limited to asserting legal exemptions or privileges under the laws of the jurisdiction of FINRA); and

e. will cooperate with the SFC in any action or proceedings, in the jurisdiction of FINRA or elsewhere, that seek to safeguard the confidentiality of any of the Non-Public

[redacted]

2. At the Requested Authority's request and direction, the Requesting Authority will:-

(a) stop using and copying the Requested Authority's Non-Public Information;

[redacted]

[redacted]

Exchange Commission (SEC) if it is covered under a legally enforceable request and there is a written request by the SEC to FINRA in respect of the same.

5 The Authorities intend that the sharing or disclosure of Non-Public Information, [redacted] including but not limited to deliberative and consultative materials, pursuant to the terms of this MOU, will not constitute a waiver of privilege or confidentiality of such Non-Public Information.

6. In the event of any actual or threatened unauthorized use, loss or disclosure of a [redacted] entitled, without waiving any other rights or remedies at law or in equity, to seek immediate injunctive or equitable relief from a court of competent jurisdiction.

7. The Authorities acknowledge that all Information shared or exchanged pursuant to this MOU is provided “as is”.

press releases, statements to the news media or other public announcements

[redacted]

without the other Authority's prior written consent.

2. The Authorities agree to this MoU being made publicly available.

ARTICLE ELEVEN: ENTIRE UNDERSTANDING

This MOU constitutes the entire understanding between the Authorities with respect to its of subject matter.

MS
5/5/16

The Securities and Futures Commission

By:
Name
Title: Chief Executive Officer
Date:

Financial Industry Regulatory Authority, Inc.

By:
Name: Daniel M. Sibears

[redacted]

Appendix A

Contact Persons

The Securities and Futures Commission

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International Department

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United States of America

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Gloria Dalton, Senior Director

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(Email): gloria.dalton@finra.org

Appendix B

List of Cross-Border Regulated Entities – Regular Liaison

For each named Cross-Border Regulated Entity or group of Cross-Border Regulated Entities:

The Securities and Futures Commission

[Name]

[Title, Division/ Department]

[Regulator]

[Address]

(Tel): [ ]

(Fax): [ ]

Financial Industry Regulatory Authority, Inc.

[Name]

[Title, Division/ Department]

[Regulator]

[Address]

(Tel): [ ]

(Fax): [ ]