



International Organization of Securities Commissions
Organisation internationale des commissions de valeurs
Organizaç o Internacional das Comiss es de Valores
Organizaci n Internacional de Comisiones de Valores
المنظمة الدولية لهيئات الأوراق المالية

APRC Supervisory MMoU

Appendix A

**Name of the
Signatory
(Authority):**

Financial Regulatory Commission
MONGOLIA

**Name and signature
of the Authorized
Representative:**

Mr. Bayarsaikhan Dembereldash, Chairman

Date of Signature:

17 October 2022

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Asia-Pacific Regional Committee (APRC)

**MULTILATERAL MEMORANDUM OF UNDERSTANDING
FOR SUPERVISORY COOPERATION**

PREAMBLE

A) The signatories of this *Multilateral Memorandum of Understanding for Supervisory Cooperation* (“Supervisory MMoU”),

- having regard to the increasing cross-border activity in the securities and derivatives markets in the APRC region and the corresponding need for consultation and the exchange of information related to supervisory activities;
- having regard to market developments in the APRC region and their implications to investor protection, market integrity and financial stability; and
- desiring to provide one another with the fullest mutual assistance possible, in accordance with and subject to their respective domestic laws and regulations and subject to the resource capacities of each signatory, to facilitate the performance of their supervisory and oversight functions with which they are entrusted within their respective jurisdictions;

intend to set up a formal framework for supervisory cooperation and have reached the following common understanding on the areas and modalities of assistance to be provided in accordance with this Supervisory MMoU. Although this is not a legally binding instrument, the Supervisory MMoU represents a commitment among signatories to cooperate and exchange supervisory information to the fullest extent permissible in accordance with, and subject to, their respective domestic laws and regulations.

B) The cooperation and the exchange of information between Authorities under this Supervisory MMoU are subject to their respective domestic laws and regulations, with due regard to their state or national sovereignty and the resource capacities of each signatory. The cooperation under this Supervisory MMoU should therefore be understood and implemented in a manner that is consistent with the laws and regulations of each Authority.

1: DEFINITIONS

For the purposes of this Supervisory MMoU the following terms are defined as described:

- "Authority" means those authorities listed in Appendix A, which are the authorities that have signed this Supervisory MMoU.
- "Requested Authority" means an Authority to whom a request for assistance is made under this Supervisory MMoU.
- "Requesting Authority" means an Authority making a request for assistance under this Supervisory MMoU.
- “Laws and Regulations” means the provisions of the laws of the jurisdictions of the Authorities, the regulations promulgated thereunder, and other regulatory requirements that fall within the competence of the Authorities.

- "Person" means a natural or legal person, including an unincorporated entity or association, corporations and partnerships.
- "Regulated Person" means a Person or a financial market participant or other entity whose activities subject it to the supervision, oversight and/or authorization or registration of one of the Authorities.
- "Records" means documents, electronic media, and books and records within the possession, custody, and control of, and other information about, a Person.
- "Ongoing Assistance" means all assistance including the provision of information provided by one Authority to another Authority, including unsolicited assistance.
- "Emergency Situation" means the occurrence of an event that could materially impair the financial or operational condition of the markets, activities or Persons that are under the scope of competence of an Authority.
- "On-Site Visit" means any regulatory visit to the premises of a Person for the purposes of ongoing supervision and oversight, with a view to providing assistance to a Requesting Authority or allowing the Visiting Authority to perform its duties.
- "Local Authority" means the Authority in whose territory a Person that is the subject of an On-Site Visit is physically located.
- "Visiting Authority" means the Authority that has requested or has been accepted by the Local Authority to conduct an On-site Visit.

2: GENERAL PRINCIPLES

- 2.1.** This Supervisory MMoU is a statement of intent to consult, cooperate, and exchange information in connection with the supervision and oversight of Persons and activities under the scope of competence of the Authorities.
- 2.2.** The cooperation and information sharing arrangements under this Supervisory MMoU should be interpreted and implemented in a manner that is permitted by, and is consistent with, the Laws and Regulations applicable to each Authority.
- 2.3.** This Supervisory MMoU is intended to supplement the informal consultations and cooperation between Authorities and to facilitate the written exchange of both public and non-public information in accordance with the applicable Laws and Regulations.
- 2.4.** This Supervisory MMoU does not create any legally binding obligations, confer any rights, or supersede domestic laws. This Supervisory MMoU does not confer upon any Person the right or ability, directly or indirectly, to obtain, suppress, or exclude any information or to challenge the execution of a request for assistance under this Supervisory MMoU. Cooperation among the Authorities is subject to their respective domestic Laws and Regulations, with due regard to the concept of state or national sovereignty. The cooperation under this Supervisory MMoU should therefore be understood and implemented in a manner that is consistent with the Laws and Regulations of each Authority. It is acknowledged that the ability to provide cooperation depends on the powers of the Authorities available under their domestic Laws and Regulations.

- 2.5.** This Supervisory MMoU is not intended to limit or impose conditions on the discretion of an Authority in any way in the discharge of its regulatory responsibilities or to prejudice the responsibilities or autonomy of any Authority. This Supervisory MMoU does not limit an Authority to taking solely those measures described herein in fulfillment of its supervisory functions. In particular, and subject to the procedures described in this Supervisory MMoU, it does not affect any right of any Authority to communicate with or obtain information or documents from any Person subject to its regulation or supervision and in accordance with the Laws and Regulations of the Authority.
- 2.6.** This Supervisory MMoU is intended to complement but does not alter or supersede the terms and conditions of the following existing arrangements:
- i.** The *Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information* (revised May 2012) ("IOSCO MMoU"), and the subsequent *Enhanced MMoU* ("IOSCO EMMoU"), to which some of the Authorities are signatories, both of which cover primarily information sharing in the context of enforcement matters;
 - ii.** Any existing bilateral or multilateral MoUs or equivalent or similar instruments or arrangements for international cooperation signed between Authorities that are signatories to this Supervisory MMoU.

3: SCOPE OF ASSISTANCE

- 3.1.** The Authorities will, within the framework of this Supervisory MMoU and with no prejudice to their Laws and Regulations, provide each other with the fullest cooperation permissible to assist in the deployment of their supervisory functions.
- 3.2.** The scope of cooperation would be performed within the Laws and Regulations that apply to the Authorities in the area of securities regulation.
- 3.3.** Cooperation will be useful in relation to all matters that fall under the supervisory functions of the Authorities including, without limitation:
- i.** The initial application of a Regulated Person in one jurisdiction for authorization, licensing, registration or exemption from registration in the other jurisdiction;
 - ii.** The ongoing oversight of a Regulated Person conducting cross-border activities that is (a) regulated by both Requesting and Requested Authority or (b) regulated by one authority but is related to entities being regulated by another authority or, subject to the domestic Laws and Regulations of the Authorities, outsourcing any of its operation to Persons in the other jurisdiction;
 - iii.** Regulatory approvals or supervisory actions taken in relation to a Person by one Authority that may impact the operations of a Regulated Person in the other jurisdiction; and
 - iv.** Any other matters which fall under the supervisory functions of the Authorities which may, depending on the applicable Laws and Regulations, include information about un-regulated persons where relevant to the supervisory functions of the Authorities.
- 3.4.** The assistance under this Supervisory MMoU includes, without limitation:
- i.** Providing supervisory information and documents held in the files of the Requested Authority in relation to their supervisory functions, regarding the matters set forth in the

request for assistance, including for example, interim and annual financial statements, other regulatory reports, early warning notices, etc.;

- ii. Obtaining information and documents regarding the supervisory matters set forth in the request for assistance;
- iii. Assistance in connection with supervisory activities, including supervisory On-Site Visits, to the extent that it is permissible under the Laws and Regulations of the Local Authority. Authorities will discuss and reach understanding on the terms regarding these supervisory visits, taking into full account the jurisdictional sovereignty and any limitations of the domestic Laws and Regulations.

4: REQUEST FOR ASSISTANCE

- 4.1. To facilitate the cooperation and assistance under this Supervisory MMoU, the Authorities will appoint officers with the appropriate seniority that should act as contact points for handling and following up the requests for assistance made under the Supervisory MMoU. The Authorities will communicate and update, as necessary, the contact information of those officers, which will be listed in Appendix B. The ongoing updates made to such contact list (Appendix B) will not affect and will not change any other parts of this Supervisory MMoU.
- 4.2. The requests for assistance will be made in writing, including by email (i.e. through a letter of request or other formal means) and will be addressed to the contact point designated by each Authority. The request for assistance could be sent out by electronic means or by any other means as jointly decided by the Authorities, giving due consideration to the confidentiality of the request.
- 4.3. In Emergency Situations, the requests for assistance could be made by a phone call or by any other means, but in all cases those requests should be followed by a formal request, as indicated in Paragraph 4.2, and will be addressed to the Requested Authority's contact point.
- 4.4. The requests for assistance will, subject to the domestic Laws and Regulations of the Authorities, contain, as a minimum, the following:
 - i. A general description of the matter that is the subject of the request and the purpose for which the assistance is sought. This may include, for instance, a description of why the requested information is relevant or needed for a specific supervision purpose; the legal or regulatory standards that are relevant to the supervisory issue; whether the supervisory issue to which the request relates cannot reasonably be obtained by other means; as well as any other reference that would assist the Requested Authority to understand the request for assistance and determine the best way to handle such request;
 - ii. The specific assistance or information sought by the Requesting Authority;
 - iii. The desired time for the reply and, where appropriate, an indication of the urgency of the matter; and
 - iv. Any other information or reference that the Requesting Authority considers appropriate to communicate to the Requested Authority, as part of the handling of the request.
- 4.5. Upon receiving the request for assistance, the Requested Authority shall handle the request in accordance with its Laws and Regulations. The responses to the requests for assistance will be made in writing and could be sent out by electronic means or by any other means as jointly decided by the Authorities, giving due consideration to the confidentiality of the request.

- 4.6.** The Requested Authority may deny the provision of the assistance that has been requested by the Requesting Authority for reasons of public interest or national security, or when the request falls outside the scope of the Supervisory MMoU, or is not made in accordance with the terms of this Supervisory MMoU, or is contrary to or would require the Requested Authority to act in a manner that would violate the Laws and Regulations of the Requested Authority.

5: COOPERATION IN AUTHORIZATION, REGISTRATION OR RECOGNITION PROCESSES

- 5.1.** The Authorities recognize the importance of consulting each other during the authorization, registration or recognition process of the applicable Person or activity. Upon request, the Authorities, to the extent possible, intend to provide each other with information when a Person or an activity that is subject to the regulation or supervision of one Authority (Requested Authority), applies for authorization, registration or recognition in the other Authority's jurisdiction (Requesting Authority), so that the latter (Requesting Authority) receives information related to, among other things:

- i.** Whether the Person, its directors, officers, or other stakeholders, if applicable, are in good standing before the Requested Authority, as well as information about sanctions or disciplinary measures imposed or pending to be imposed on such Persons by the Requested Authority.
- ii.** The current financial, legal, administrative, or operational condition of the Person or any other information that allows the Requesting Authority to get a clear understanding of the above-mentioned Person, or verify the condition of such Person, prior to granting the corresponding authorization, registration or recognition.
- iii.** Information regarding the status, integrity or experience of the prospective directors and executives of the Person that is the subject of the request.
- iv.** The veracity or accuracy of the information submitted by the Person to the Requesting Authority as part of the authorization, registration or recognition process, to the extent such information refers to activities or matters under the remit of the Requested Authority.

6: COOPERATION FOR ON-GOING SUPERVISION AND OVERSIGHT

- 6.1.** The Authorities recognize the importance of close cooperation concerning their on-going monitoring, supervision and oversight, and thus the Authorities intend to provide each other, with Ongoing Assistance, and share, upon prior written request and subject to the Laws and Regulations of the Requested Authority, among other things:
- i.** Information that is jointly decided between the Requesting Authority and the Requested Authority; and
 - ii.** Information related to sanctions, disciplinary or corrective measures imposed or impending to be imposed by an Authority on any Person or its managers or members, as well as information related to the revocation or suspension of its authorization, registration or recognition.

- 6.2. The Requested Authority will provide reasonable assistance in clarifying, where necessary, the information, documents or records provided to the Requesting Authority in response to a request for assistance.
- 6.3. The Authorities intend to meet as they consider appropriate, to analyze issues of common interest related to, among others, the regulation or supervision of activities or Persons, and any other potential or actual risks or situations that may have an impact on supervisory issues in their jurisdictions. Those meetings could take place by conference calls, in-person meetings, or by any other means as decided by the Authorities.

7: COOPERATION FOR ON-SITE VISITS

- 7.1. To the extent that it is permissible under the domestic Laws and Regulations, the Authorities acknowledge that they may need to carry out On-Site Visits to Persons conducting cross-border businesses or conducting any activity that may fall under either or both Authorities' scope of competence. On-Site Visits will be conducted by following the procedures as set in Paragraph 7.2, in accordance with any other procedures jointly decided by the Authorities, and in a manner that is consistent with the applicable Laws and Regulations of the Local Authority, and therefore the Authorities are expected to discuss on a case-by-case basis the best way to proceed and provide each other with the necessary assistance and cooperation. Such visits might take different forms, modalities or procedures, for example they could take the form of joint On-Site Visit, an On-Site Visit conducted by the Local Authority, or allowing the Visiting Authority to conduct the On-site Visit.
- 7.2. On-site Visits will only be carried out after consultation and /or agreement with the Local Authority, as applicable. The Visiting Authority would notify the Local Authority and, if applicable, would request its assistance with at least thirty (30) days in advance of the planned On-site Visit, indicating the purpose of the visit and the specific aspects or areas of interest. Exceptionally, in urgent cases, the request might be made in a shorter timeframe, but this would be subject to the Local Authority's acceptance. Additionally, the request for this assistance should indicate the applicable Laws and Regulations of the Visiting Authority in relation to the Person or activity to be reviewed. On-site Visits will only be carried out after consultation with or consent from the Local Authority, as applicable, with due regard to the Laws and Regulations of the Local Authority.
- 7.3. The Visiting Authority would inform the Local Authority at the conclusion of an On-Site Visit and will provide the latter, to the extent reasonable, with information on or a summary of the results of the On-Site Visit.

8: OTHER TYPES OF COOPERATION

8.1. *Cooperation on Outsourcing-related Matters*

- 8.1.1. The Requesting Authority may make a request for assistance, including for example a request for information or for an On-site Visit, to the Requested Authority in connection with outsourced service providers located in the territory of the Requested Authority, in accordance with this Supervisory MMoU. The Requested Authority, subject to the applicable Laws and Regulations, intends to provide assistance, to the extent possible, in response to such request.
- 8.1.2. Where the Local Authority's Laws and Regulations do not allow for conducting, at the request of the Requesting Authority, an On-site Visit of Persons providing outsourced services to the Requesting Authorities' Regulated Persons, and/or to obtain information from those Persons, the Local/Requested Authority will explain to the Visiting/Requesting Authority the reasons for not being able to provide such assistance.

8.2. Cooperation in Emergency Situations

- 8.2.1.** The Authorities recognize the importance of keeping each other informed about any Emergency Situation, risk or event that may have a material adverse impact on Regulated Persons or activities under its scope of competence, and for that purpose the Authorities intend to use their best efforts, in accordance with and subject to their Laws and Regulations and subject to the resource capacities, to communicate to each other on the above.
- 8.2.2.** The determination of what constitutes a “material event” or “adverse impact” will be left to the reasonable discretion of the relevant Authority that determines to notify the other Authority.
- 8.2.3.** During Emergency Situations, the Authorities should keep each other informed by any means available, with the exchange of information being formalized, without delay, and addressed to the contact points designated by the Authorities.

8.3. Cooperation against Money Laundering and Combating Financing Terrorism

- 8.3.1.** Upon request, and in accordance with their Laws and Regulations, the Authorities will endeavor to cooperate and assist each other in matters related to the prevention of money laundering and the financing of terrorism or to refer or make contact with the relevant authorities, as the case may be, to assist the Requesting Authority’s supervisory duties.

8.4. Unsolicited assistance

- 8.4.1.** Each Authority may provide, without prior request and subject to its resource capacities, the other Authorities with any information that it considers likely to be of assistance to other Authorities in exercising their supervisory functions.

9: PERMISSIBLE USES AND CONFIDENTIALITY OF THE INFORMATION

- 9.1.** The Requesting Authority may use non-public documents and information obtained under this Supervisory MMoU solely for the purpose of supervision and oversight of the Persons and activities, as set out in the request, pursuant to its Laws and Regulations.
- 9.2.** If a Requesting Authority intends to use information furnished under this Supervisory MMoU for any other purpose than those stated in Paragraph 9.1, it must comply with the requirements of paragraphs 9.3 to 9.7 and must obtain the prior written consent of the Requested Authority.
- 9.3.** The Authorities recognize that while information is not to be gathered for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement. In such cases, the procedures in Paragraph 9.4 must be followed and further use of such information should be governed by the terms and conditions of the IOSCO MMoU and EMMoU, as applicable.
- 9.4.** Where a Requesting Authority intends to use the information furnished under this Supervisory MMoU for enforcement purpose and/or criminal procedures, an additional request must be made by the Requesting Authority in line with the procedures set forth in the IOSCO MMoU and EMMoU and/or other procedures the Requested Authority may indicate as the case might require.
- 9.5.** Each Authority will keep all the cooperation under this Supervisory MMoU, the contents of the requests for cooperation, the fact that a request has been made, the response and the non-public information received and exchanged under this Supervisory MMoU, as well as all consultations between Authorities, confidential.

- 9.6.** The Authorities will not disclose non-public documents and information received under this Supervisory MMoU, except as permitted under Paragraphs 9.1 and 9.2 above and in case of a legally enforceable demand and in accordance with this Paragraph. In the event of a legally enforceable demand, the Authority in question will notify the Authority that provided the information under this Supervisory MMoU as soon as possible upon receipt of such demand and prior to complying with the demand, and assist in preserving the confidentiality of the information by taking all appropriate measures including asserting such appropriate legal exemptions or privileges with respect to such information as are available.

If not previously stated in the request of assistance (e.g., purposes stated in the request of information), the Requesting Authority will obtain prior written consent from the Requested Authority before disclosing any non-public documents and information received under this Supervisory MMoU to any third party, and will inform the third party on any limitations on the uses of such supervisory information in accordance with the Laws and Regulations of the Requested and the Requesting Authorities, including the confidential treatment or restricted handling of the information, as applicable. If consent is not obtained from the Requested Authority, the Requesting Authority and the Requested Authority will, to the extent possible under their Laws and Regulations, consult to discuss the reasons for withholding approval, and the circumstances, if any, under which the intended use by the Requesting Authority might be allowed.

- 9.7.** In the event of the termination of an Authority's participation in this Supervisory MMoU, the information obtained under this Supervisory MMoU will continue to be treated confidentially in the manner described under Paragraphs 9.5 and 9.6.

10: MODIFICATIONS, COMMENCEMENT AND TERMINATION OF PARTICIPATION IN THE SUPERVISORY MMOU

- 10.1.** In cases of any material difference with respect to the interpretation of this Supervisory MMoU, the Authorities will conduct mutual consultation with a view to reaching a mutually acceptable interpretation.
- 10.2.** The Authorities may agree, by unanimity, to modify the Supervisory MMoU. Such modifications will be formalised in writing specifying the date in which those amendments will commence.
- 10.3.** Cooperation in accordance with this Supervisory MMoU will begin on the date of its signing by the Authorities. The Supervisory MMoU will commence for additional Authorities as of the date of that Authority's signing of Appendix A.
- 10.4.** The Authorities may consider the need to review the functioning of the Supervisory MMoU as necessary, with a view to reflecting the change to the market and regulatory environment.
- 10.5.** Any Authority may decide, when it deems appropriate, to terminate its participation in this Supervisory MMoU. For this purpose, the Authority seeking to terminate its participation in this Supervisory MMoU will send a written communication to the IOSCO General Secretariat notifying this decision, no less than thirty (30) days in advance of the date when the termination will occur. The notification of termination of participation in this Supervisory MMoU will not affect the conclusion of the cooperation or assistance that has been requested prior to making such notification.
- 10.6.** In the event of the termination of an Authority's participation in this Supervisory MMoU, information obtained under this Supervisory MMoU will continue to be treated confidentially in

the manner prescribed in this Supervisory MMoU and cooperation under this Supervisory MMoU will continue among the other Authorities.

11: ADMISSION OF NEW SIGNATORIES

11.1. Additional IOSCO members may become Authorities under this Supervisory MMoU, in accordance with the procedures set forth in Appendix C. New Authorities may be added under this Supervisory MMoU by signing Appendix A.

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Appendix A – Authorities that are signatories to the Supervisory MMoU.

Appendix B – Designated contact points of the Authorities for request of assistance.

Appendix C – Procedure to become a signatory of the Supervisory MMoU.