

MEMORANDUM OF UNDERSTANDING

BETWEEN THE

	
<p><i>COMMISSIONE NAZIONALE PER LE SOCIETÀ E LA BORSA</i></p>	<p>DUBAI FINANCIAL SERVICES AUTHORITY</p>

IN RELATION TO

ASSISTANCE and MUTUAL CO-OPERATION

2013

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1. INTRODUCTION

- 1.1. The DFSA was established under Dubai Law No. 9 of 2004 and is the independent integrated financial services and market regulator of the Dubai International Financial Centre (DIFC). The DFSA administers the DIFC Regulatory Law No. 1 of 2004, which provides, among other things, for the authorization, registration, recognition and supervision of financial service providers, financial services and products related to banking, securities, Islamic finance, collective investment schemes, asset management, trust services and insurance and re-insurance. The DIFC has two authorised market institutions, NASDAQ Dubai and the Dubai Mercantile Exchange (“DME”). The DFSA has the authority under the DIFC Markets Law No. 12 of 2004 to regulate these financial markets.
- 1.2. The Commissione Nazionale Per Le Società E La Borsa (CONSOB) is the public authority responsible for regulating the Italian securities market. Its activity is aimed at the protection of the investing public. In this connection, the CONSOB is the competent authority for ensuring transparency and correct behaviour by securities market participants; disclosure of complete and accurate information to the investing public by listed companies; accuracy of the facts represented in the prospectuses related to offerings of transferable securities to the investing public; and compliance with regulations by auditors entered in the Special Register. It conducts investigations with respect to potential infringements of insider dealing and market manipulation law.

2. DEFINITIONS

For the purposes of this Memorandum of Understanding:

"Authority" means the *Commissione Nazionale Per Le Società E La Borsa* (CONSOB) or the Dubai Financial Services Authority (DFSA), as the case may be.

"Authorities" means the *Commissione Nazionale Per Le Società E La Borsa* (CONSOB) and the Dubai Financial Services Authority (DFSA).

"Requested Authority" means the Authority to whom a request IS made pursuant to article 5 of this Memorandum of Understanding.

"Requesting Authority" means the Authority making a request pursuant to article 5 of this Memorandum of Understanding.

"Person" means a natural person, a legal person, partnership, or unincorporated association, government or political subdivision, agency or instrumentality of a government.

“Regulated Entity” means 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.

“Cross-Border Regulated Entity” means (a) a Regulated Entity subject to supervision and/or oversight by two or more Authorities, (b) a Regulated Entity in one Authority’s jurisdiction that has been exempted from authorization or registration in another Authority’s jurisdiction, (c) a Regulated Entity in one jurisdiction that is materially affiliated to a Regulated Entity in another Authority’s jurisdiction, or (d) a Regulated Entity in one Authority’s jurisdiction that is physically located in another Authority’s jurisdiction, or (e) a Regulated Entity that is subject to a home-host regime between two Authorities’ jurisdictions.

“Local Authority” means the Authority in whose jurisdiction a Cross-Border Regulated Entity operates.

“Emergency Situation” means the occurrence of an event that could materially impair the financial or operational condition of a Cross-Border Regulated Entity.

“Securities market” means an exchange or other market, including an over-the-counter market, in respect of equity securities, debt securities, bonds, futures and options or any other security that is recognised, regulated or supervised by the Authorities.

“Territory” means the country, state, zone or other territory, as the case may be, in which an Authority has legal authority, power and *I* or jurisdiction conferred by law.

3. PRINCIPLES

3.1.

The CONSOB and the DFSA wish to enhance their close and co-operative relationship. As co-signatories of the IOSCO Multi-lateral MoU, both Authorities confirm their adherence to the highest standards of cooperation and exchange of information to ensure compliance with and enforcement of their securities and derivatives laws and regulations.

- 3.2. The Authorities also wish to commit themselves to cooperating in matters beyond enforcement by acknowledging the importance of supervisory cooperation. In fact, this MoU is not intended to be relied upon for enforcement purposes, which are the province of the IOSCO MMoU. Supervisory cooperation recognises the need to exchange general and more specific information about matters of regulatory concern, including financial and other supervisory information, technical expertise, surveillance and investor education and the sharing of information related to systemic risks.

4. MUTUAL ASSISTANCE

- 4.1. The Authorities will use their best endeavours to meet the terms of this Memorandum of Understanding. This MOU does not impose any legally binding obligation on the Authorities. It

does not modify or supersede any domestic laws or regulatory requirements, in force in, or applying, to the Authorities. This MOU complements, but does not alter the terms and conditions of the IOSCO MMOU or any existing bilateral MoUs into which any of the Authorities have entered..

- 4.2. This Memorandum of Understanding does not affect any right of any Authority under its domestic laws or any other arrangement to take measures, otherwise than as provided herein, to obtain information necessary to ensure compliance with, or to enforce, its domestic laws or regulations. In particular, this Memorandum of Understanding does not affect any right of either Authority to communicate with or obtain information or documents from any other person on a voluntary basis on the territory of the other Authority.
- 4.3. This Memorandum of Understanding will not give any other person, directly or indirectly, other than the authorities, the right to obtain information. No person other than the Authorities, may suppress or exclude any information, or challenge the execution of a request for assistance invoked through this MOU.
- 4.4. In the course of ongoing supervision and to the extent permitted by laws and practices, each Authority will use all reasonable efforts to provide the other Authority with any information and documents held in the files of the Requested Authority related to the facts discovered in the course of ongoing supervision and/or underlying such supervision.
- 4.5. The Authorities recognize the need and desirability for providing mutual assistance and exchanging information to assist each other in fulfilling their respective supervisory and oversight responsibilities. However, the Requested Authority may deny assistance requested under this Memorandum of Understanding on the ground that:
 - 4.5.1. The provision of assistance would violate an essential national or public interest or the domestic law of the Requested Authority; or
 - 4.5.2. The request is not made in accordance with the provisions of this Memorandum of Understanding.

5. SCOPE OF MUTUAL ASSISTANCE AND EXCHANGE OF INFORMATION

- 5.1. The Authorities recognize the importance of close communication concerning Cross-Border Regulated Entities, and intend to consult regularly at the staff level regarding:
 - 5.1.1. General supervisory issues, including with respect to regulatory, oversight, education or other program developments;
 - 5.1.2. Issues relevant to the operations, activities, and regulation of Cross-Border Regulated Entities; and
 - 5.1.3. Any other areas of mutual supervisory interest.
- 5.2. Cooperation may be most useful in, but is not limited to, the following circumstances where issues of common regulatory concern may arise:

- The initial application of a Regulated Entity in one jurisdiction for authorisation, registration or exemption from registration in another jurisdiction;
- The ongoing oversight of a Cross-Border Regulated Entity;
- Regulatory approvals or supervisory actions taken in relation to a Cross-Border Regulated Entity by one Authority that may impact the operations of the entity in the other jurisdiction; and
- The monitoring, mitigation and management of risks to the financial system

6. ADVANCE NOTIFICATION

6.1. Each Authority will keep the other Authority informed, in a timely manner, of:

- 6.1.1. Pending regulatory changes that may have a significant impact on the operations, activities, or reputation of a Cross-Border Regulated Entity;
- 6.1.2. Any material event that could adversely impact a Cross-Border Regulated Entity. Such events include known changes in the operating environment, operations, financial resources, management, or systems and control of a Cross-Border Regulated Entity; and
- 6.1.3. Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Cross-Border Regulated Entity.

7. SHARING REPORTS ON REGULATED ENTITIES

7.1. To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information not otherwise available to the Requesting Authority, and interpreting such information so as to enable the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation:

- 7.1.1. Information relevant to the financial and operational condition of a Cross-Border Regulated Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
- 7.1.2. Relevant regulatory information and filings that a Cross-Border Regulated Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

7.1.3. Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Cross-Border Regulated Entities.

8. EXECUTION OF REQUESTS FOR ASSISTANCE

8.1. To the extent possible, a request for written information pursuant to Paragraphs 9 to 12 should be made in writing, and addressed to the relevant contact person identified in Appendix a. A request generally should specify the following:

- The information sought by the Requesting Authority;
- A general description of the matter which is the subject of the request and the supervisory purpose for which the information is sought; and
- The desired time period for reply and, where appropriate, the urgency thereof.

8.2. In Emergency Situations, the Authorities will endeavour 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 Emergency Situations, requests for information may be made in any form, including orally, provided such communication is confirmed in writing as promptly as possible following such notification.

9. PERMISSIBLE USES OF INFORMATION

9.1. The Requesting Authority may use non-public information obtained under this MOU solely for the purpose of supervising Cross-Border Regulated Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority.

9.2. This MOU is intended to complement, but does not alter the terms and conditions of the existing arrangements between the Authorities concerning cooperation in securities matters. The Authorities recognise that while information is not to be gathered under the auspices of this MOU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMOU.

10. CONFIDENTIALITY OF INFORMATION AND ONWARD SHARING

- 10.1. Except for disclosures in accordance with the MOU, each Authority will keep confidential to the extent permitted by law information shared under this MOU, requests made under this MOU, the contents of such requests, and any other matters arising under this MOU.
- 10.2. To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand for non-public information furnished under this MOU. Prior to compliance with the demand, the Requesting Authority intends to assert all appropriate legal exemptions or privileges with respect to such information as may be available.
- 10.3. Except as provided in the above paragraphs, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MOU to any non-signatory to this MOU. If consent is not obtained from the Requested Authority, the Authorities will consult to discuss the reasons for withholding approval of such use and the circumstances, if any, under which the intended use by the Requesting Authority might be allowed.
- 10.4. The Authorities intend that the sharing or disclosure of non-public information, 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 information.

11. MODIFICATION

- 11.1. Modifications to the text of this document (excluding the Appendices) may be made from time to time but any modifications require the approval of all signatories.

12. TERMINATION

- 12.1. An Authority may terminate its participation in this Memorandum of Understanding at any time by giving at least 30 days prior written notice to each other Authority. Cooperation in accordance with this MOU will continue until the expiration of 30 days after any Authority gives written notice to another Authority of its intention to terminate the MOU. If any Authority gives such notice, cooperation will continue with respect to all requests for assistance that were made under the MOU before the effective date of notification until the Requesting Authority terminates the matter for which assistance was requested. In the event of termination of this MOU, information obtained under this MOU will continue to be treated in a manner prescribed under paragraphs 17 to 21.
- 12.2. Any dispute or controversy arising from the implementation or application of this MoU will be settled by negotiation, with a view to an amicable settlement.

13. CONTACT PERSONS

13.1. All communications between the Authorities should be between the principal points of contact as set out in Appendix A unless otherwise agreed. Appendix A may however be amended by written notice from either Authority without the need for the re-signing of this Memorandum of Understanding.

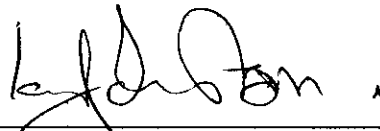
Signed on 20 December, 2013


**THE *COMMISSIONE NAZIONALE*
PER LE SOCIETÀ E LA BORSA**

**DUBAI FINANCIAL SERVICES
AUTHORITY**



**Giuseppe Vegas
Chairman**





**Ian Johnston
Chief Executive**

APPENDIX A

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