

法規名稱：MEMORANDUM OF UNDERSTANDING ON INFORMATION SHARING AND REGULATORY COOPERATION BETWEEN THE BUREAU OF MONETARY AFFAIRS OF THE MINISTRY OF FINANCE OF THE REPUBLIC OF CHINA AND THE SUPERINTENDENCE OF THE FINANCIAL SYSTEM OF EL SALVADOR

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Memorandum of Understanding on Information Sharing and Regulatory Cooperation between the Bureau of Monetary Affairs of the Ministry of Finance of the Republic of China and the Superintendence of the Financial System of El Salvador

The Bureau of Monetary Affairs of the Ministry of Finance of the Republic of China and the Superintendence of the Financial System of El Salvador (hereinafter referred to as " the Bureau" and " the Superintendence" respectively or " the Supervisory Authorities" collectively) ,

CONSIDERING:

- I) That it is necessary to establish a scheme of bilateral cooperation to achieve adequate and efficient supervision of financial entities of the Republic of China and of El Salvador, especially financial conglomerates,
- II) That the strengthening of each Supervisory Authority's ability to prudently supervise their financial systems, especially financial conglomerates which are part of them, requires a flow of timely and reliable information based on mutual cooperation between the Supervisory Authorities of both countries, and that the above will not only enhance the protection of depositors and foster the development of sound and strong financial systems, but also strengthen financial, commercial and cultural relations between both countries,
- III) That given the opening of branches and subsidiaries by parent companies domiciled in the Republic of China and in El Salvador, the exchange of information between the Supervisory Authorities of both countries is of great importance,

CONSEQUENTLY, in the spirit of mutual trust and understanding and within the limitations of their respective legal frameworks, the Supervisory Authorities agree to sign the following Memorandum of Understanding (MOU) on Information Sharing and Regulatory Cooperation subject to the following terms:

1. DEFINITIONS:

For the purpose of this MOU, the terms used will be defined as follows:

- * Financial entity: a corporate entity that is part of the country's financial system.
- * Subsidiary: a corporate entity controlled through share ownership by a bank of the home country. In the present agreement, such entities will receive the same treatment as that of branches of foreign banks.
- * Parent company: a corporate entity that controls an economic group.
- * Holding company: a corporate entity whose main activity consists in having share control of other entities.
- * Economic group: a collection of national and/or foreign corporate entities formed by at least two firms having common decision making and economic goals.
- * Financial conglomerate: a conglomerate whose business is financial, i.e. banking, insurance or securities business.

2. BASLE COMMITTEE'S CORE PRINCIPLES FOR EFFECTIVE BANKING SUPERVISION

The Supervisory Authorities agree to adopt the Core Principles stated in the Basle Committee's document "Principles for the supervision of banks' foreign establishments" (May 1983). Consequently, they are in agreement with the role assigned to the supervisory entity of the parent company's home country and with the role assigned to the supervisory entity of the host country.

Accordingly, the Supervisory Authorities assume that the parent company's home country supervisor will supervise the organization, management and internal control, risk management, ca-

pital adequacy and any significant element that can affect the soundness and stability of the group, and to this effect that it has access to any relevant information. On the other hand, the host country supervisor will supervise the organization, management, internal control, risk management, efficiency of money (asset) lauring controls, capital adequacy and solvency of the foreign entity's activities in the host country. In addition, the host country supervisor will insure the adequacy of the financial statements and the accuracy of the information received by the home country supervisor in accordance with the rules governing each of the two parties' financial system. Furthermore, in the case that entities in the host country would have opened either branches or subsidiaries in third countries, the host country supervisor will acquire the responsibility as home country supervisor in relation to the corresponding subgroup, as long as the regulation in those third countries allows it.

3. COOPERATION AND INFORMATION SHARING AGREEMENT

The Supervisory Authorities agree to cooperate so as to reach the objectives expressed in the above section. For this purpose, the Supervisory Authorities will, either by their own initiative or by request, exchange relevant information if available, and in general, will assist as much as possible in the fulfillment of each other's duties.

The parent company's home country supervisor is particularly interested in identifying those entities belonging to the group or in which the latter has significant participation, and in knowing the intra-group operations and problems or weaknesses manifested in their operations, their internal controls, their financial situation or their image in the host country. Moreover, the home country supervisor is interested in obtaining any relevant information that may cause adjustments to the consolidated financial statements. Hence, as long as the information is relevant, the home country supervisor will be interested in knowing the observations, requirements and penalties,

and in general any measure adopted by the host country supervisor against the entities or the administration of the group. Furthermore, the home country supervisor will be interested in any information that the host country supervisor obtains that casts doubts upon the group conducting its operations in a sound and prudent manner. Simultaneously, the home country supervisor can request the support of the host country supervisor to ensure that entities operating in the host country can provide their parent companies with the accounting information needed to manage risk and to perform consolidated statements, especially information regarding credit and security portfolios.

The host country supervisor will be especially interested in knowing about the quality of management and internal control of the parent or the holding company, any problem or weakness at a group-wide level, and measures adopted by the home country authority that could affect the stability of the entities operating in its territory.

The Supervisory Authorities will be interested in knowing the state and evolution of their respective financial and banking markets and the condition of the banking groups over which they have any authority.

4. CONFIDENTIALITY

Available information that will be exchanged must be used for supervisory purposes only. The information to be exchanged will be subject to the legal restrictions and the professional secrecy regulations prevailing in each country.

5. ON-SITE SUPERVISION

As long as the host country's laws allow it, the home country supervisor will be able to perform, in coordination with the host country authority, on-site supervision. All the information and activities related to that matter will be strictly confidential.

Both Supervisory Authorities, upon the initiative of either of them and always by agreement, can include an entity located in

both countries in their on-site inspection plans. If the home country supervisor participates in any on-site examination, it will be considered as a guest party.

When the home country supervisor requires any information to perform its functions, it must request such information from the host country supervisor so that such requirement can be added to the plan of the on-site examination to which the home country supervisor is invited.

6. ISSUES REGARDING THE ACTIVITIES OF THE GROUP

The Supervisory Authorities agree, when necessary and upon request of the other party, to exchange lists of corporate entities considered to be a member of the groups under supervision, regardless if their financial statements are consolidated or not. At the same time, they will provide, when necessary and upon request of the other party, information about relevant intra-group operations that took place in the host country as well as in third countries.

7. ISSUES REGARDING THE AUTHORIZATION OF BANK SUBSIDIARIES

If legally required, banks should seek approval from their respective supervisory authorities to establish branches or subsidiaries in foreign territories and to acquire direct or indirect participation on any existing foreign entity. In any case, the host country may deny the authorization according to its laws and regulations.

The Supervisory Authorities will demand that the parent companies of foreign subsidiaries have timely information about the financial state of their subsidiaries, and about their risk levels and risk management practices both individually and on a consolidated basis. At the same time, the Supervisory Authorities must subject subsidiaries and branches in foreign countries under their supervision to external auditing, preferably by the company performing the auditing of the group as a whole

The host country authority will subject the foreign bank entities operating in its territory to the same high standards and

supervision procedures as domestic entities are subjected to. The Supervisory Authorities will consult each other freely over any issue and can request the exchange of any significant information related to such subsidiaries or branches.

8. ISSUES RELATED TO OTHER FINANCIAL ENTITIES SUPERVISED BY OTHER AUTHORITIES

The Supervisory Authorities are interested in obtaining any information obtained by either of them that could be relevant to the group's supervision. Similarly, they will be interested in knowing any relevant changes in local regulations affecting those entities.

9. ISSUES RELATED TO NON-FINANCIAL ENTITIES

In both countries, bank's participation in non-financial entities is subject to some limitations. The Supervisory Authorities will be interested in any information on this subject.

10. CONTACT OR MEETINGS BY REPRESENTATIVES OF THE SUPERVISORY AUTHORITIES

Officials in charge of supervision in both countries will be able, at any moment, to ask for advice and clarifications from the other party, and to request any meeting considered necessary.

All communications between the Supervisory Authorities will be between the principal contact points as set out in the Annex unless otherwise decided. The Annex may be amended by written notice from either the Supervisory Authorities without the need for re-signature of this MOU.

11. LANGUAGE OF THE MOU AND ENTRY INTO EFFECT

This MOU, done in triplicate in the English, Spanish and Chinese languages, each version being equally authentic, will take effect on the date of signature. In case of any discrepancy in the interpretation of the MOU, the English version shall prevail.

IN WITNESS WHEREOF, the undersigned, being duly authorized for this purpose, have signed this MOU, this thirtieth day of October, 2000 in San Salvador.

For the Bureau of Monetary Affairs
of the Ministry of Finance of
the Republic of China

Yao-Shing Wang
Director General

For the Superintendence of
the Financial System of El
Salvador

Guillermo A. Argumedo
Superintendente

ANNEX

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