

Annex B: IAIS MMoU Confidentiality Regime

Any Signatory Authority to this MMoU must guarantee compliance with the strict Confidentiality Regime below:

1. As a general rule any information received under this MMoU shall be treated as confidential except where otherwise indicated or where information is passed on in summary or aggregate form such that individual Regulated Entities cannot be identified.
2. The MMoU is not aimed at requests for information that has been or is publicly available (public information). Such requests should remain limited to cases where confirmation is sought or where public information proves difficult to obtain from other sources, when it may be readily delivered by the Requested Authority.

A. Confidentiality and Guarantee of Professional Secrecy

The legal system of a Signatory Authority's jurisdiction must provide incorporated rules protecting Confidential Information which are at least equivalent to the following:

3. The exchange of Confidential Information shall serve no other purposes than those directly related to the fulfilment of a Signatory Authority's supervisory functions (valid purpose).
4. To achieve confidential treatment of information received, any Signatory Authority to the MMoU must provide that all persons gaining access to this information in the course of their duties are bound by an obligation of professional secrecy.
5. The obligation of professional secrecy means that - as a basic rule - all Confidential Information received may not be divulged to any person or authority whatsoever, except in certain circumstances and subject to requirements outlined in this Annex.
6. The professional secrecy requirements apply to any person currently or previously employed by or acting on behalf of a Signatory Authority.
7. Confidential Information originating from another Signatory Authority must remain subject to equivalent confidentiality protections. Therefore any further passing on of Confidential Information requires that the person receiving the information is bound by professional secrecy rules at least equivalent to those outlined in provisions 4, 5 and 6 of this Annex.
8. Any passing on of Confidential Information in breach of professional secrecy must be unlawful in the relevant jurisdiction of the Signatory Authority.

B. Passing on of Confidential Information

9. Any passing on of Confidential Information exchanged under this MMoU, including information that shall be forwarded by way of official reporting, necessitates prior explicit agreement of the Signatory Authority from whom the information originates and must be subject to the terms of this agreement, in particular regarding the purpose for which the information shall be used.

10. Passing on of Confidential Information shall be decided on a case-by-case basis by the Requested Authority.

11. Without prejudice to provisions 9 and 10 and provided that Confidential Information received under this MMoU shall:

- serve no other purposes than those specified in the request; and
- remain subject to equivalent confidentiality protection

the Signatory Authorities consent to passing on of information where it will assist:

- Signatory Authorities in the fulfilment of their supervisory functions; and
- other domestic bodies competent in the financial services field (including central banks), law enforcement agencies and relevant courts in the performance of their duties.

12. Specified purposes cover in particular requests in relation to:

- licensing;
- fit and proper criteria;
- ongoing supervision including auditing matters;
- winding up, liquidation and bankruptcy;
- criminal and regulatory proceedings; and
- the administration of guarantee funds.

13. Furthermore Signatory Authorities shall generally consent to any passing on of Confidential Information where the individual Regulated Entity to whom the information relates explicitly agrees.

C. Confirmation Statement

14. Compliance with the strict confidentiality regime as outlined in this Annex B is a key prerequisite for joining the MMoU and becoming a Signatory Authority. Therefore every applicant must sign the following confirmation statement in the following terms at an appropriate level of responsibility:

"I confirm, on behalf of my organisation, that:

- on our understanding, information to be disclosed to us will be subject to equivalent professional secrecy to that outlined in the IAIS MMoU confidentiality regime as set out above; and
- we will notify all Signatory Authorities of this MMoU and the IAIS Secretariat of any changes in the guarantees of professional secrecy applying to such information which could affect the assessment of the equivalence of these guarantees according to the IAIS MMoU confidentiality regime.

I also confirm, on behalf of my organisation, that in relation to information disclosed by another Signatory Authority:

- we will obtain the prior consent of the Signatory Authority from whom the information originated before voluntarily passing on such information; and

- we will, as far as practicable, notify that Signatory Authority promptly of any passing on of information or disclosure prescribed by law, and use our best endeavours to resist such demand in practice if requested by that Signatory Authority.

Date and Signature"