

MEMORANDUMS OF UNDERSTANDING RELATED TO THE SUPERVISION OF CROSS-BORDER ALTERNATIVE INVESTMENT FUND MANAGERS

Supplement to the OSC Bulletin

August 1, 2013

Volume 36, Issue 31 (Supp-5)

(2013), 36 OSCB

The Ontario Securities Commission administers the
Securities Act of Ontario (R.S.O. 1990, c. S.5) and the
Commodity Futures Act of Ontario (R.S.O. 1990, c. C.20)

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Published under the authority of the Commission by:

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Toronto, Ontario
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Subscriptions are available from Carswell at the price of \$649 per year.

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U.S.	\$175
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Single issues of the printed Bulletin are available at \$20 per copy as long as supplies are available.

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MEMORANDUMS OF UNDERSTANDING RELATED TO THE SUPERVISION OF CROSS-BORDER ALTERNATIVE INVESTMENT FUND MANAGERS

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MEMORANDUMS OF UNDERSTANDING RELATED TO THE SUPERVISION OF CROSS-BORDER ALTERNATIVE INVESTMENT FUND MANAGERS

NOTICE OF MEMORANDUMS OF UNDERSTANDING CONCERNING CONSULTATION, COOPERATION AND THE EXCHANGE OF INFORMATION RELATED TO THE SUPERVISION OF CROSS-BORDER ALTERNATIVE INVESTMENT FUND MANAGERS

August 1, 2013

The Ontario Securities Commission, together with the Autorité des marchés financiers, Alberta Securities Commission and British Columbia Securities Commission, recently entered into supervisory Memorandums of Understanding (the "Supervisory MOUs") with the following European Union and European Economic Area member state financial regulators:

- Autoriteit Financiële Markten (The Netherlands)
- Autorité des marchés financiers (France)
- Bundesanstalt für Finanzdienstleistungsaufsicht (Germany)
- Central Bank of Ireland (Ireland)
- Comissão do Mercado de Valores Mobiliários (Portugal)
- Comisión Nacional del Mercado de Valores (Spain)
- Romanian National Securities Commission (Romania)
- Commissione Nazionale per le Società e la Borsa (Italy)
- Commission de Surveillance du Secteur Financier (Luxembourg)
- Cyprus Securities and Exchange Commission (Cyprus)
- Czech National Bank (Czech Republic)
- Finansinspektionen (Sweden)
- Finanssivalvonta (Finland)
- Finanstilsynet (Denmark)
- Finanšu un kapitāla tirgus komisija (Latvia)
- Finanzmarktaufsicht (Austria)
- Estonian Financial Supervision Authority (Estonia)
- Polish Financial Supervision Authority (Poland)
- Financial Services Authority (United Kingdom)
- Financial Supervision Commission (Bulgaria)
- Financial Services and Markets Authority (Belgium)
- Hellenic Capital Market Commission (Greece)
- Lithuanian Securities Commission (Lithuania)
- Malta Financial Services Authority (Malta)
- Národná banka Slovenska (Slovak Republic)
- Pénzügyi Szervezetek Állami Felügyelete (Hungary)
- Fjármálaeftirlitið (Iceland)
- Finanstilsynet (Norway)
- Finanzmarktaufsicht (Liechtenstein)

The entering into of the Supervisory MOUs is a pre-condition under the EU Alternative Investment Fund Managers Directive (AIFMD) for allowing non-EU Alternative Investment Fund Managers (AIFMs) to manage and market Alternative Investment Funds (AIFs) in the EU and to perform fund management activities on behalf of EU Managers. Under the AIFMD, AIFMs are legal persons whose regular business is the risk and/or portfolio management of AIFs and AIFs are collective investment undertakings other than those that comply with the EU Undertakings for Collective Investment in Transferable Securities Directive.

The purpose of the Supervisory MOUs is to facilitate consultation, cooperation and the exchange of information related to the supervision of AIFMs that operate on a cross-border basis in the jurisdictions of both the relevant EU and Canadian Authority.

The Supervisory MOUs are subject to the approval of the Minister of Finance. The Supervisory MOUs were delivered to the Minister of Finance on July 16, 2013.

The Supervisory MOUs are reproduced on the following internally numbered pages.

Questions may be referred to:

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MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Finanzmarktaufsicht (Austria) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
- i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (*AMF*), the Ontario Securities Commission (*OSC*), the Alberta Securities Commission (*ASC*), the British Columbia Securities Commission (*BCSC*), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).
- b) "Requested Authority" means :
- i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) "EU competent authority": means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.²
- e) "AIFMD" means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) "Manager" means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an "EU Manager" means a Manager that is established in an EU member state and a "Canadian Manager" means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) "Covered Fund" means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an "EU Covered Fund" means a Covered Fund that is domiciled in an EU member state and a "Canadian Covered Fund" means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) "UCITS" means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) "Delegate" means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) "Depositary" means an entity appointed to perform the depositary functions of a Covered Fund.
- k) "Operate(s) on a cross-border basis" includes the following situations:
- i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

² Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. "Covered Entity" means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) "Cross-border on-site visit" means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority's jurisdiction, for the purposes of on-going supervision.
- n) "Governmental Entity" means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Treasury Board and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) "Local Authority" means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) "Emergency Situation" means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) "ESMA" means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) "ESRB" means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the

laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

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

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager³ shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
- 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities Commission 	Autorité des marchés financiers (Québec)	Alberta Securities Commission	British Columbia Securities Commission	Finanzmarktaufsicht (Austria) 
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Appendix A. List of EU Governmental Entities

Article 10. Termination of the MoU; Successor authorities

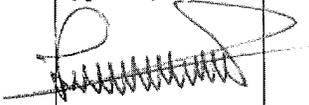
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- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities Commission	Autorité des marchés financiers (Québec)	Alberta Securities Commission 	British Columbia Securities Commission	Finanzmarktaufsicht (Austria)
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Appendix A. List of EU Governmental Entities

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities Commission	Autorité des marchés financiers (Québec)	Alberta Securities Commission	British Columbia Securities Commission 	Finanzmarktaufsicht (Austria)
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Appendix A. List of EU Governmental Entities

Appendix A

None

Appendix B

Finanzmarktaufsicht (Austria)

Dr. Christoph Kapfer, LL.M. MBA
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Fax: (403) 355-4479
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Autorité des marchés financiers

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British Columbia Securities Commission

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MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Financial Services and Markets Authority (Belgium) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (**AMF**), the Ontario Securities Commission (**OSC**), the Alberta Securities Commission (**ASC**), the British Columbia Securities Commission (**BCSC**), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
- i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.



Ontario Securities
Commission

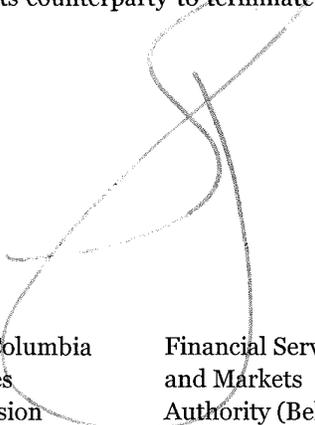
Autorité des
marchés
financiers
(Québec)

Signatures

Alberta Securities
Commission

British Columbia
Securities
Commission

Financial Services
and Markets
Authority (Belgium)



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Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

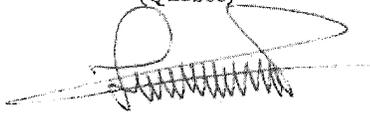
Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Financial Services
and Markets
Authority (Belgium)

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gives written notice to the others. If either 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 Article 7 to 9.

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Signatures

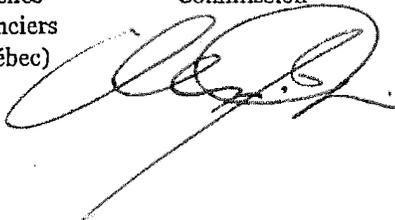
Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Financial Services
and Markets
Authority (Belgium)

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Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Financial Services
and Markets
Authority (Belgium)



Appendix A

None

Appendix B

Financial Services and Markets Authority (Belgium)

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Ontario Securities Commission

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MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Financial Supervision Commission (Bulgaria) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (**AMF**), the Ontario Securities Commission (**OSC**), the Alberta Securities Commission (**ASC**), the British Columbia Securities Commission (**BCSC**), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
- i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
- 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

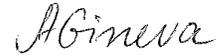


Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Financial
Supervision
Commission
(Bulgaria)



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- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

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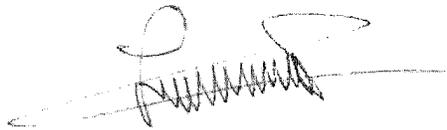
Ontario Securities
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Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Financial
Supervision
Commission
(Bulgaria)

A handwritten signature in black ink, appearing to be a stylized name, is written over the signature line of the Ontario Securities Commission.

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

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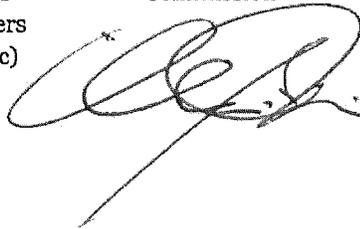
Ontario Securities
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Autorité des
marchés
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Commission

Financial
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Commission
(Bulgaria)

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gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

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Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Financial
Supervision
Commission
(Bulgaria)

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Appendix A

None

Appendix B

Financial Supervision Commission (Bulgaria)

Mr. Dimitar Koychev
Director of International Cooperation Directorate
Telephone: +359 2 9404 774
Fax: +359 2 829 43 18
Email: koichev_d@fsc.bg

Alberta Securities Commission

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Calgary, Alberta
T2P 0R4
Canada

Attention: Executive Director

Telephone: (403) 297-4698
Fax: (403) 355-4479
Email: kari.horn@asc.ca

Autorité des marchés financiers

800, Square Victoria, 22nd Floor
Box 246, tour de la Bourse
Montréal, QC
H4Z 1G3
Canada

Attention: Corporate Secretary

Telephone: (514) 395-0337 ext. 2517
Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre
701 West Georgia
Vancouver, B.C. V7Y 1L2

Attention: Secretary to the Commission
Telephone: (604) 899-6534

Fax: (604) 899-6506
Email: commsec@besc.bc.ca

Ontario Securities Commission

20 Queen Street West
22nd Floor
Toronto, ON M5H 3S8

Attention: Director, Office of Domestic and International Affairs

Telephone: (416) 593-8084
Fax: (416) 595-8942
Email: talexopoulos@osc.gov.on.ca

MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Cyprus Securities and Exchange Commission (Cyprus) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (*AMF*), the Ontario Securities Commission (*OSC*), the Alberta Securities Commission (*ASC*), the British Columbia Securities Commission (*BCSC*), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
 - i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
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 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
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¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission



Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Cyprus Securities
and Exchange
Commission
(Cyprus)



gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Cyprus Securities
and Exchange
Commission
(Cyprus)

A handwritten signature in black ink, consisting of a large, stylized initial 'P' followed by a series of vertical, wavy lines.

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

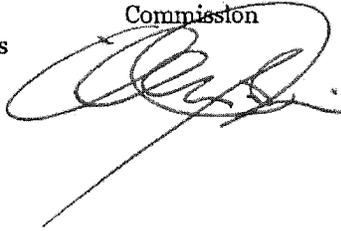
This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission



British Columbia
Securities
Commission

Cyprus Securities
and Exchange
Commission
(Cyprus)

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Cyprus Securities
and Exchange
Commission
(Cyprus)



Appendix A

None

Appendix B

Cyprus Securities and Exchange Commission (Cyprus)

Liana C. Ioannidou, BSc FCA
Senior Officer
Head of Strategy & International Relations

Telephone: 00 357 22 506 600 ext 670
Fax: 00 357 22 506 700

Alberta Securities Commission

Suite 600, 250-5th Street SW
Calgary, Alberta
T2P OR4
Canada

Attention: Executive Director

Telephone: (403) 297-4698
Fax: (403) 355-4479
Email: kari.horn@asc.ca

Autorité des marchés financiers

800, Square Victoria, 22nd Floor
Box 246, tour de la Bourse
Montréal, QC
H4Z 1G3
Canada

Attention: Corporate Secretary

Telephone: (514) 395-0337 ext. 2517
Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre
701 West Georgia
Vancouver, B.C. V7Y 1L2

Attention: Secretary to the Commission
Telephone: (604) 899-6534
Fax: (604) 899-6506
Email: commsec@bcsc.bc.ca

Ontario Securities Commission

20 Queen Street West
22nd Floor
Toronto, ON M5H 3S8

Attention: Director, Office of Domestic and International Affairs

Telephone: (416) 593-8084
Fax: (416) 595-8942
Email: talexopoulos@osc.gov.on.ca

MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Czech National Bank (Czech Republic) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (*AMF*), the Ontario Securities Commission (*OSC*), the Alberta Securities Commission (*ASC*), the British Columbia Securities Commission (*BCSC*), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a *Canadian Authority*, or collectively the *Canadian Authorities*).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) "EU competent authority": means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) "AIFMD" means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) "Manager" means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an "EU Manager" means a Manager that is established in an EU member state and a "Canadian Manager" means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) "Covered Fund" means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an "EU Covered Fund" means a Covered Fund that is domiciled in an EU member state and a "Canadian Covered Fund" means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) "UCITS" means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) "Delegate" means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) "Depositary" means an entity appointed to perform the depositary functions of a Covered Fund.
- k) "Operate(s) on a cross-border basis" includes the following situations:
- i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. "Covered Entity" means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) "Cross-border on-site visit" means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority's jurisdiction, for the purposes of on-going supervision.
- n) "Governmental Entity" means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) "Local Authority" means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) "Emergency Situation" means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) "ESMA" means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) "ESRB" means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

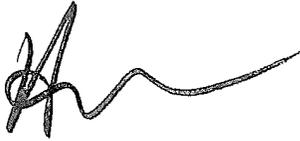
- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.



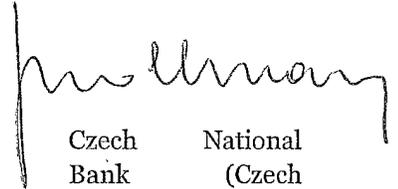
Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Signatures

Alberta Securities
Commission

British Columbia
Securities
Commission



Czech National
Bank (Czech
Republic)

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.



Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Czech
Bank
Republic)

National
(Czech

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

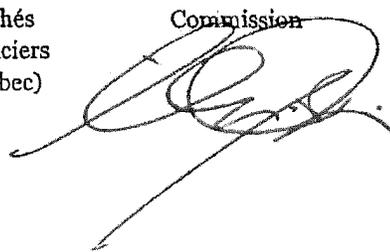
Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Czech
Bank
Republic)

National
(Czech

A large, stylized handwritten signature in black ink, overlapping the text of the Alberta Securities Commission.

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Czech
Bank
Republic)

National
(Czech



Appendix A

None

Appendix B

Czech National Bank (Czech Republic)

International Cooperation on Financial Market Division
Na Prikope 28;
115 03 Prague

Mr. Karel Juras
Head of International Cooperation Unit

Email: karel.juras@cnb.cz

Alberta Securities Commission

Suite 600, 250-5th Street SW
Calgary, Alberta
T2P OR4
Canada

Attention: Executive Director

Telephone: (403) 297-4698
Fax: (403) 355-4479
Email: kari.horn@asc.ca

Autorité des marchés financiers

800, Square Victoria, 22nd Floor
Box 246, tour de la Bourse
Montréal, QC
H4Z 1G3
Canada

Attention: Corporate Secretary

Telephone: (514) 395-0337 ext. 2517
Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre
701 West Georgia
Vancouver, B.C. V7Y 1L2

Attention: Secretary to the Commission
Telephone: (604) 899-6534
Fax: (604) 899-6506
Email: commsec@bcsc.bc.ca

Ontario Securities Commission

20 Queen Street West
22nd Floor
Toronto, ON M5H 3S8

Attention: Director, Office of Domestic and International Affairs

Telephone: (416) 593-8084
Fax: (416) 595-8942
Email: talexopoulos@osc.gov.on.ca

MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Finanstilsynet (Denmark) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (**AMF**), the Ontario Securities Commission (**OSC**), the Alberta Securities Commission (**ASC**), the British Columbia Securities Commission (**BCSC**), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
- i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.



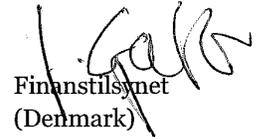
Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Signatures

Alberta Securities
Commission

British Columbia
Securities
Commission



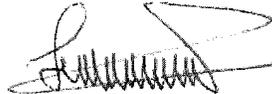
Finanstilsynet
(Denmark)

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Commission

Autorité des
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Alberta Securities
Commission

British Columbia
Securities
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Article 11. Entry into force

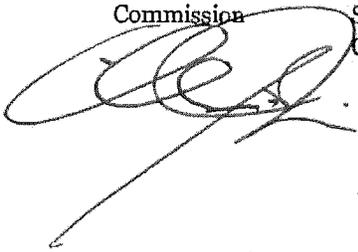
This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

A large, stylized handwritten signature in black ink, overlapping the text of the Alberta Securities Commission.

British Columbia
Securities
Commission

Finanstilsynet
(Denmark)

gives written notice to the others. If either 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 Article 7 to 9.

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Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Finanstilsynet
(Denmark)



Appendix A

None

Appendix B

Finanstilsynet (Denmark)

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Johanne Daugaard Risbjerg
Deputy Director
Collective Investments Division

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Alberta Securities Commission

Suite 600, 250-5th Street SW
Calgary, Alberta
T2P OR4
Canada

Attention: Executive Director

Telephone: (403) 297-4698

Fax: (403) 355-4479

Email: kari.horn@asc.ca

Autorité des marchés financiers

800, Square Victoria, 22nd Floor
Box 246, tour de la Bourse
Montréal, QC
H4Z 1G3
Canada

Attention: Corporate Secretary

Telephone: (514) 395-0337 ext. 2517

Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre

701 West Georgia

Vancouver, B.C. V7Y 1L2

Attention: Secretary to the Commission

Telephone: (604) 899-6534

Fax: (604) 899-6506

Email: commsec@bcsc.bc.ca

Ontario Securities Commission

20 Queen Street West

22nd Floor

Toronto, ON M5H 3S8

Attention: Director, Office of Domestic and International Affairs

Telephone: (416) 593-8084

Fax: (416) 595-8942

Email: talexopoulos@osc.gov.on.ca

MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Estonian Financial Supervision Authority (Estonia) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (**AMF**), the Ontario Securities Commission (**OSC**), the Alberta Securities Commission (**ASC**), the British Columbia Securities Commission (**BCSC**), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
- i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
- i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
- i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

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Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission



Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Estonian Financial
Supervision
Authority (Estonia)



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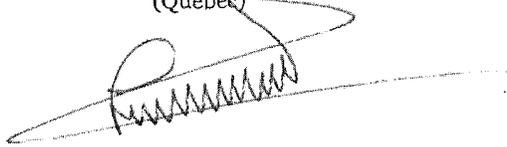
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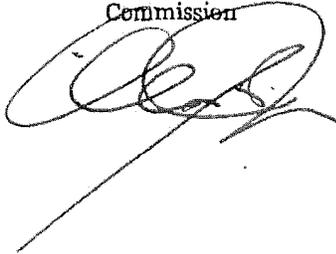
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Appendix A

None

Appendix B

Estonian Financial Supervision Authority (Estonia)

Raul Malmstein, Chairman of the Management Board of the EFSA

Email: raul.malmstein@fi.ee

Gerle Reinumägi, Coordinator of International Affairs

Email: gerle.reinumagi@fi.ee

Alberta Securities Commission

Suite 600, 250-5th Street SW

Calgary, Alberta

T2P OR4

Canada

Attention: Executive Director

Telephone: (403) 297-4698

Fax: (403) 355-4479

Email: kari.horn@asc.ca

Autorité des marchés financiers

800, Square Victoria, 22nd Floor

Box 246, tour de la Bourse

Montréal, QC

H4Z 1G3

Canada

Attention: Corporate Secretary

Telephone: (514) 395-0337 ext. 2517

Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre

701 West Georgia

Vancouver, B.C. V7Y 1L2

Attention: Secretary to the Commission

Telephone: (604) 899-6534

Fax: (604) 899-6506
Email: commsec@bcsc.bc.ca

Ontario Securities Commission

20 Queen Street West
22nd Floor
Toronto, ON M5H 3S8

Attention: Director, Office of Domestic and International Affairs

Telephone: (416) 593-8084
Fax: (416) 595-8942
Email: talexopoulos@osc.gov.on.ca

MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Finanssivalvonta (Finland) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (*AMF*), the Ontario Securities Commission (*OSC*), the Alberta Securities Commission (*ASC*), the British Columbia Securities Commission (*BCSC*), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).

- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.

- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
- i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

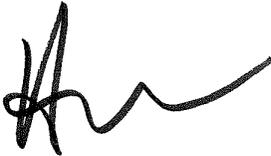
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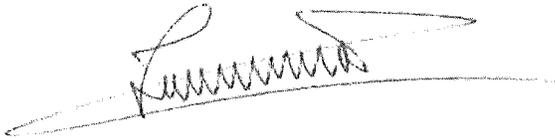
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Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Finanssivalvonta
(Finland)

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Appendix A

Ministry of Social Affairs and Health

Appendix B

Finanssivalvonta (Finland)

The Finnish Supervisory Authority,
P.O. Box 103,
FI-00101 Helsinki, Finland

Mr. Jarmo Parkkonen
Head of Market Supervision

Alberta Securities Commission

Suite 600, 250-5th Street SW
Calgary, Alberta
T2P 0R4
Canada

Attention: Executive Director

Telephone: (403) 297-4698
Fax: (403) 355-4479
Email: kari.horn@asc.ca

Autorité des marchés financiers

800, Square Victoria, 22nd Floor
Box 246, tour de la Bourse
Montréal, QC
H4Z 1G3
Canada

Attention: Corporate Secretary

Telephone: (514) 395-0337 ext. 2517
Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre
701 West Georgia
Vancouver, B.C. V7Y 1L2

Attention: Secretary to the Commission

Telephone: (604) 899-6534
Fax: (604) 899-6506
Email: commsec@bcsc.bc.ca

Ontario Securities Commission

20 Queen Street West
22nd Floor
Toronto, ON M5H 3S8

Attention: Director, Office of Domestic and International Affairs

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Fax: (416) 595-8942
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MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Autorité des marchés financiers (France) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (*AMF*), the Ontario Securities Commission (*OSC*), the Alberta Securities Commission (*ASC*), the British Columbia Securities Commission (*BCSC*), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a *Canadian Authority*, or collectively the *Canadian Authorities*).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
 - i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority, ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.



Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Signatures

Alberta Securities
Commission

British Columbia
Securities
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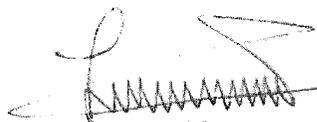
Autorité des
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Ontario Securities Commission	Autorité des marchés financiers (Québec)	Alberta Securities Commission	British Columbia Securities Commission	Autorité des marchés financiers (France)
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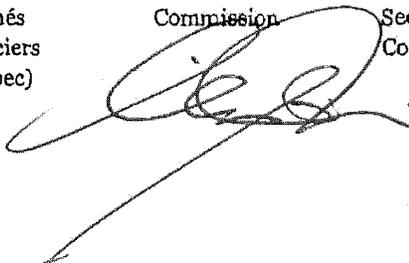
Ontario Securities
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Autorité des
marchés financiers
(France)

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Appendix A

Autorité de contrôle prudentiel

Appendix B

Autorité des marchés financiers (France)
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Managing Director,
Investigations and Inspections Division

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Canada

Attention: Corporate Secretary

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Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission
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Vancouver, B.C. V7Y 1L2

Attention: Secretary to the Commission

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Fax: (604) 899-6506
Email: commsec@bcsc.bc.ca

Ontario Securities Commission

20 Queen Street West
22nd Floor
Toronto, ON M5H 3S8

Attention: Director, Office of Domestic and International Affairs

Telephone: (416) 593-8084
Fax: (416) 595-8942
Email: talexopoulos@osc.gov.on.ca

MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Bundesanstalt für Finanzdienstleistungsaufsicht (Germany) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

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- d) "EU competent authority": means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) "AIFMD" means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) "Manager" means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an "EU Manager" means a Manager that is established in an EU member state and a "Canadian Manager" means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) "Covered Fund" means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an "EU Covered Fund" means a Covered Fund that is domiciled in an EU member state and a "Canadian Covered Fund" means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) "UCITS" means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) "Delegate" means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) "Depositary" means an entity appointed to perform the depositary functions of a Covered Fund.
- k) "Operate(s) on a cross-border basis" includes the following situations:
- i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. "Covered Entity" means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) "Cross-border on-site visit" means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority's jurisdiction, for the purposes of on-going supervision.
- n) "Governmental Entity" means:
- i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) "Local Authority" means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) "Emergency Situation" means:
- i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) "ESMA" means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) "ESRB" means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority, ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Bundesanstalt für
Finanzdienstleistun
gsaufsicht
(Germany)



gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

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Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Bundesanstalt für
Finanzdienstleistungsaufsicht
(Germany)



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British Columbia
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Bundesanstalt für
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- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

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Signatures

Ontario Securities
Commission

Autorité des
marchés
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Alberta Securities
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Bundesanstalt für
Finanzdienstleistun
gsaufsicht
(Germany)



gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

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Signatures

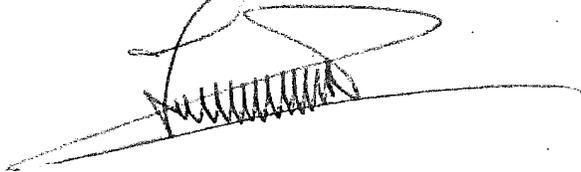
Ontario Securities
Commission

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financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Bundesanstalt für
Finanzdienstleistun
gsaufsicht
(Germany)

A large, stylized handwritten signature in black ink, appearing to be a cursive or scribbled name, positioned below the list of signatories.

Appendix A

None

Appendix B

Bundesanstalt für Finanzdienstleistungsaufsicht (Germany)

Referat WA 41
Mr. Joachim Schneider
Postfach 500154
60391 Frankfurt am Main
Germany

Alberta Securities Commission

Suite 600, 250-5th Street SW
Calgary, Alberta
T2P OR4
Canada

Attention: Executive Director

Telephone: (403) 297-4698
Fax: (403) 355-4479
Email: kari.horn@asc.ca

Autorité des marchés financiers

800, Square Victoria, 22nd Floor
Box 246, tour de la Bourse
Montréal, QC
H4Z 1G3
Canada

Attention: Corporate Secretary

Telephone: (514) 395-0337 ext. 2517
Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre
701 West Georgia
Vancouver, B.C. V7Y 1L2

Attention: Secretary to the Commission
Telephone: (604) 899-6534
Fax: (604) 899-6506
Email: commsec@bcsc.bc.ca

Ontario Securities Commission

20 Queen Street West
22nd Floor
Toronto, ON M5H 3S8

Attention: Director, Office of Domestic and International Affairs

Telephone: (416) 593-8084

Fax: (416) 595-8942

Email: talexopoulos@osc.gov.on.ca

MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Hellenic Capital Market Commission (Greece) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (**AMF**), the Ontario Securities Commission (**OSC**), the Alberta Securities Commission (**ASC**), the British Columbia Securities Commission (**BCSC**), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
- i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
- i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
- i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission



Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Hellenic Capital
Market
Commission
(Greece)



gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Hellenic Capital
Market
Commission
(Greece)

A large, stylized handwritten signature in black ink, appearing to be a cursive name, is written over the signature line of the Ontario Securities Commission.

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

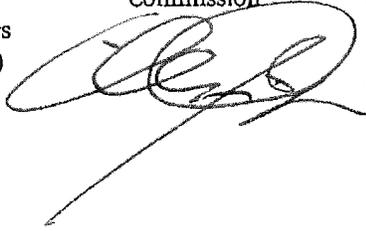
This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

A large, stylized handwritten signature in black ink, overlapping the text of the Alberta Securities Commission.

British Columbia
Securities
Commission

Hellenic Capital
Market
Commission
(Greece)

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Hellenic Capital
Market
Commission
(Greece)



Appendix A

None

Appendix B

Hellenic Capital Market Commission (Greece)

1 Kolokotroni & Stadiou Street,
105 62 Athens, Greece
Telephone: +30 210 33 77 215 or 216
Fax: +30 210 33 77 210

Ms. Eleftheria Apostolidou, Director
Directorate of International Relations
Email: e.apostolidou@cmc.gov.gr

Alberta Securities Commission

Suite 600, 250-5th Street SW
Calgary, Alberta
T2P 0R4
Canada

Attention: Executive Director

Telephone: (403) 297-4698
Fax: (403) 355-4479
Email: kari.horn@asc.ca

Autorité des marchés financiers

800, Square Victoria, 22nd Floor
Box 246, tour de la Bourse
Montréal, QC
H4Z 1G3
Canada

Attention: Corporate Secretary

Telephone: (514) 395-0337 ext. 2517
Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre
701 West Georgia
Vancouver, B.C. V7Y 1L2

Attention: Secretary to the Commission

Telephone: (604) 899-6534
Fax: (604) 899-6506
Email: commsec@bcsc.bc.ca

Ontario Securities Commission

20 Queen Street West
22nd Floor
Toronto, ON M5H 3S8

Attention: Director, Office of Domestic and International Affairs

Telephone: (416) 593-8084
Fax: (416) 595-8942
Email: talexopoulos@osc.gov.on.ca

MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Pénzügyi Szervezetek Állami Felügyelete (Hungary) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (**AMF**), the Ontario Securities Commission (**OSC**), the Alberta Securities Commission (**ASC**), the British Columbia Securities Commission (**BCSC**), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
- i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Pénzügyi
Szervezetek Állami
Felügyelete
(Hungary)



gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

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Signatures

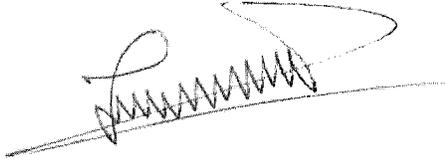
Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Pénzügyi
Szervezetek Állami
Felügyelete
(Hungary)

A handwritten signature in black ink, consisting of a large, stylized initial 'P' followed by a series of vertical, wavy lines, all written over a horizontal line.

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- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

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Commission

Autorité des
marchés
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(Québec)

Alberta Securities
Commission



British Columbia
Securities
Commission

Pénzügyi
Szervezetek Állami
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(Hungary)

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Pénzügyi
Szervezetek Állami
Felügyelete
(Hungary)

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Appendix A

None

Appendix B

Pénzügyi Szervezetek Állami Felügyelete (Hungary)

H-1534 Budapest, BKKP Postafiók: 777
(36-1) 4899-100

Dr. Árpád Király, managing director

László Seregdi, deputy of managing director

Alberta Securities Commission

Suite 600, 250-5th Street SW
Calgary, Alberta
T2P OR4
Canada

Attention: Executive Director

Telephone: (403) 297-4698

Fax: (403) 355-4479

Email: kari.horn@asc.ca

Autorité des marchés financiers

800, Square Victoria, 22nd Floor
Box 246, tour de la Bourse
Montréal, QC
H4Z 1G3
Canada

Attention: Corporate Secretary

Telephone: (514) 395-0337 ext. 2517

Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre
701 West Georgia
Vancouver, B.C. V7Y 1L2

Attention: Secretary to the Commission

Telephone: (604) 899-6534

Fax: (604) 899-6506
Email: commsec@bcsc.bc.ca

Ontario Securities Commission

20 Queen Street West
22nd Floor
Toronto, ON M5H 3S8

Attention: Director, Office of Domestic and International Affairs

Telephone: (416) 593-8084
Fax: (416) 595-8942
Email: talexopoulos@osc.gov.on.ca

MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Fjármálaeftirlitið (Iceland) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (**AMF**), the Ontario Securities Commission (**OSC**), the Alberta Securities Commission (**ASC**), the British Columbia Securities Commission (**BCSC**), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
- i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission



Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Fjármálaeftirlitið
(Iceland)



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Signatures

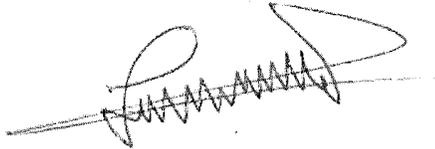
Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
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Fjármálaeftirlitið
(Iceland)

A handwritten signature in black ink, appearing to be a stylized name, is written over a horizontal line.

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Article 11. Entry into force

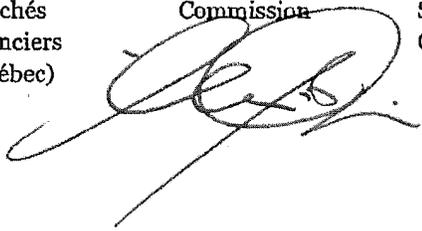
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- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Fjármálaeftirlitið
(Iceland)



Appendix A

None

Appendix B

Fjármálaeftirlitið (Iceland)

Sigurveig Guomundsdottir
Fjármálaeftirlitið
Hofdatun 2, 105 Reykjavík
Telephone: +354 520 3700

Alberta Securities Commission

Suite 600, 250-5th Street SW
Calgary, Alberta
T2P OR4
Canada

Attention: Executive Director

Telephone: (403) 297-4698
Fax: (403) 355-4479
Email: kari.horn@asc.ca

Autorité des marchés financiers

800, Square Victoria, 22nd Floor
Box 246, tour de la Bourse
Montréal, QC
H4Z 1G3
Canada

Attention: Corporate Secretary

Telephone: (514) 395-0337 ext. 2517
Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre
701 West Georgia
Vancouver, B.C. V7Y 1L2

Attention: Secretary to the Commission
Telephone: (604) 899-6534
Fax: (604) 899-6506
Email: commsec@bsec.bc.ca

Ontario Securities Commission

20 Queen Street West

22nd Floor

Toronto, ON M5H 3S8

Attention: Director, Office of Domestic and International Affairs

Telephone: (416) 593-8084

Fax: (416) 595-8942

Email: talexopoulos@osc.gov.on.ca

MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Central Bank of Ireland (Ireland) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (**AMF**), the Ontario Securities Commission (**OSC**), the Alberta Securities Commission (**ASC**), the British Columbia Securities Commission (**BCSC**), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).

- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.

- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
 - i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

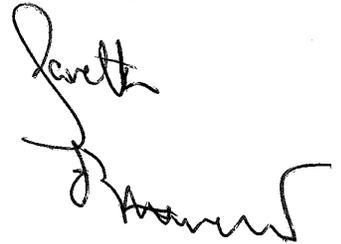


Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Central Bank of
Ireland (Ireland)



gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Central Bank of
Ireland (Ireland)

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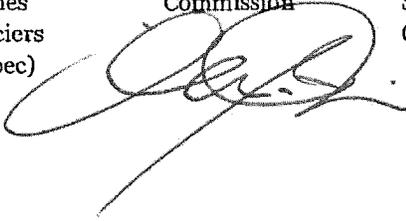
Ontario Securities
Commission

Autorité des
marchés
financiers
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A large, stylized handwritten signature in black ink, overlapping the text of the Alberta Securities Commission.

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Central Bank of
Ireland (Ireland)

A handwritten signature in black ink, appearing to be a stylized name, located below the list of signatories.

Appendix A

None

Appendix B

Central Bank of Ireland (Ireland)

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Harcourt Street
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Gareth Murphy

Email: gareth.murphy@centralbank.ie

Andy Coulson

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Alberta Securities Commission

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Attention: Executive Director

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Autorité des marchés financiers

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Canada

Attention: Corporate Secretary

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British Columbia Securities Commission

P.O. Box 10142, Pacific Centre

701 West Georgia
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Ontario Securities Commission

20 Queen Street West
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Attention: Director, Office of Domestic and International Affairs

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MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Commissione Nazionale per le Società e la Borsa (Italy) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (*AMF*), the Ontario Securities Commission (*OSC*), the Alberta Securities Commission (*ASC*), the British Columbia Securities Commission (*BCSC*), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a *Canadian Authority*, or collectively the *Canadian Authorities*).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
- i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

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Commissione
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Commissione
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Article 11. Entry into force

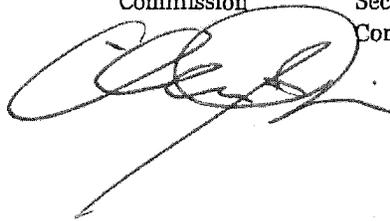
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(Québec)

Alberta Securities
Commission

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British Columbia
Securities
Commission

Commissione
Nazionale per le
Società e la Borsa
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Commissione
Nazionale per le
Società e la Borsa
(Italy)



Appendix A

IVASS (Supervisory authority on insurance companies)

Appendix B

Commissione Nazionale per le Società e la Borsa (Italy)

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Attention: Director, Office of Domestic and International Affairs

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MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Finanšu un kapitāla tirgus komisija (Latvia) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (**AMF**), the Ontario Securities Commission (**OSC**), the Alberta Securities Commission (**ASC**), the British Columbia Securities Commission (**BCSC**), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
- i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission



Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Finanšu un kapitāla
tirgus komisija
(Latvia)



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Signatures

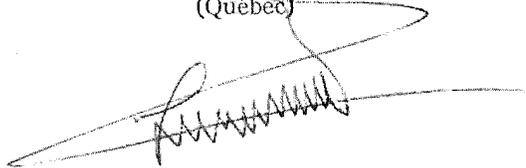
Ontario Securities
Commission

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marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Finanšu un kapitāla
tirgus komisija
(Latvia)

A large, stylized handwritten signature in black ink, appearing to be a cursive script, is written over the signature line of the 'Autorité des marchés financiers (Québec)' column.

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Finanšu un kapitāla
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marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Finanšu un kapitāla
tirgus komisija
(Latvia)



Appendix A

None

Appendix B

Finanšu un kapitāla tirgus komisija (Latvia)

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External Relations Division

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Fax: (403) 355-4479
Email: kari.horn@asc.ca

Autorité des marchés financiers

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Attention: Corporate Secretary

Telephone: (514) 395-0337 ext. 2517
Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission

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Fax: (604) 899-6506
Email: commsec@besc.bc.ca

Ontario Securities Commission

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Attention: Director, Office of Domestic and International Affairs

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MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Finanzmarktaufsicht (Liechtenstein) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

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- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
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¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission



Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Finanzmarktaufsicht
(Liechtenstein)



gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

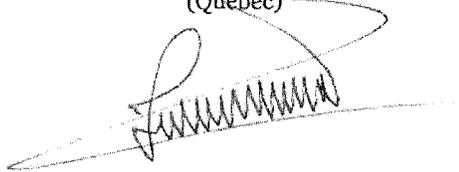
Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Finanzmarktaufsicht
(Liechtenstein)

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gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Finanzmarktaufsicht
(Liechtenstein)

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gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Finanzmarktaufsicht
(Liechtenstein)

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Appendix A

None

Appendix B

Finanzmarktaufsicht (Liechtenstein)

Mr. Marcel Lötscher, Head of the Securities Division,
Member of the Executive Board
Telephone: +423 2367385
Email: marcel.loetscher@fma-li.li

Alberta Securities Commission

Suite 600, 250-5th Street SW
Calgary, Alberta
T2P OR4
Canada

Attention: Executive Director

Telephone: (403) 297-4698
Fax: (403) 355-4479
Email: kari.horn@asc.ca

Autorité des marchés financiers

800, Square Victoria, 22nd Floor
Box 246, tour de la Bourse
Montréal, QC
H4Z 1G3
Canada

Attention: Corporate Secretary

Telephone: (514) 395-0337 ext. 2517
Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre
701 West Georgia
Vancouver, B.C. V7Y 1L2

Attention: Secretary to the Commission
Telephone: (604) 899-6534
Fax: (604) 899-6506
Email: commsec@bcsc.bc.ca

Ontario Securities Commission

20 Queen Street West
22nd Floor
Toronto, ON M5H 3S8

Attention: Director, Office of Domestic and International Affairs

Telephone: (416) 593-8084
Fax: (416) 595-8942
Email: talexopoulos@osc.gov.on.ca

MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Lithuanian Securities Commission (Lithuania) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (*AMF*), the Ontario Securities Commission (*OSC*), the Alberta Securities Commission (*ASC*), the British Columbia Securities Commission (*BCSC*), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
- i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

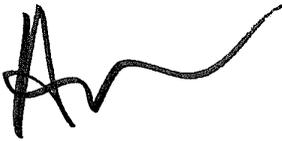
- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission



Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Bank of Lithuania
(Lithuania)



gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

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Signatures

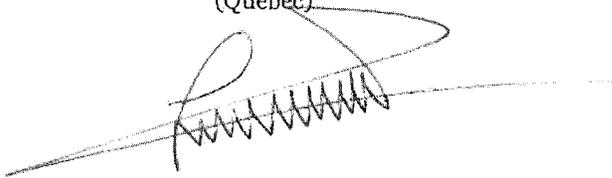
Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Bank of Lithuania
(Lithuania)

A handwritten signature in black ink, consisting of a large, stylized initial 'P' followed by a series of vertical, wavy lines, all written over a horizontal line.

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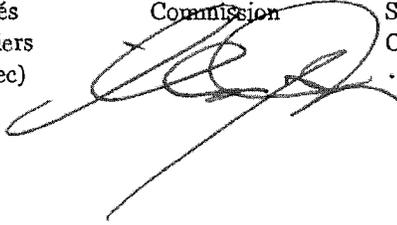
Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Bank of Lithuania
(Lithuania)

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gives written notice to the others. If either 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 Article 7 to 9.

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Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Bank of Lithuania
(Lithuania)

A handwritten signature in black ink, appearing to be a stylized name or set of initials, located below the list of signatories.

Appendix A

None

Appendix B

Bank of Lithuania (Lithuania)

Ms. Kristina Sačilkienė, Chief Lawyer of
Financial Services and Markets Supervision Department
Telephone: +370 5 2680507
Email: kacilkiene@lb.lt

Mr. Ramūnas Kaklauskas, Chief Lawyer of
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Telephone: +370 5 2680511
Email: rkaklauskas@lb.lt

Alberta Securities Commission

Suite 600, 250-5th Street SW
Calgary, Alberta
T2P OR4
Canada

Attention: Executive Director

Telephone: (403) 297-4698
Fax: (403) 355-4479
Email: kari.horn@asc.ca

Autorité des marchés financiers

800, Square Victoria, 22nd Floor
Box 246, tour de la Bourse
Montréal, QC
H4Z 1G3
Canada

Attention: Corporate Secretary

Telephone: (514) 395-0337 ext. 2517
Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre
701 West Georgia
Vancouver, B.C. V7Y 1L2

Attention: Secretary to the Commission
Telephone: (604) 899-6534
Fax: (604) 899-6506
Email: commsec@bcsc.bc.ca

Ontario Securities Commission

20 Queen Street West
22nd Floor
Toronto, ON M5H 3S8

Attention: Director, Office of Domestic and International Affairs

Telephone: (416) 593-8084
Fax: (416) 595-8942
Email: talexopoulos@osc.gov.on.ca

MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Commission de Surveillance du Secteur Financier (Luxembourg) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (*AMF*), the Ontario Securities Commission (*OSC*), the Alberta Securities Commission (*ASC*), the British Columbia Securities Commission (*BCSC*), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a *Canadian Authority*, or collectively the *Canadian Authorities*).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
- i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission



Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Commission de
Surveillance du
Secteur Financier
(Luxembourg)



gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

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Signatures

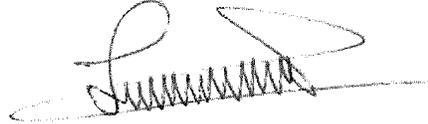
Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Commission de
Surveillance du
Secteur Financier
(Luxembourg)

A handwritten signature in black ink, appearing to be a stylized name, is written over the text of the Autorité des marchés financiers (Québec) column.

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- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

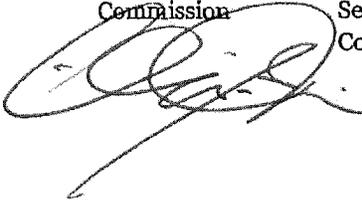
This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

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British Columbia
Securities
Commission

Commission de
Surveillance du
Secteur Financier
(Luxembourg)

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- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Commission de
Surveillance du
Secteur Financier
(Luxembourg)



Appendix A

Commissariat aux Assurances

Appendix B

Commission de Surveillance du Secteur Financier (Luxembourg)

Irmine Greischer
Premier conseiller de direction

Telephone: 00 352 26251 - 242
Email: irmine.greischer@cssf.lu

Alberta Securities Commission

Suite 600, 250-5th Street SW
Calgary, Alberta
T2P 0R4
Canada

Attention: Executive Director

Telephone: (403) 297-4698
Fax: (403) 355-4479
Email: kari.horn@asc.ca

Autorité des marchés financiers

800, Square Victoria, 22nd Floor
Box 246, tour de la Bourse
Montréal, QC
H4Z 1G3
Canada

Attention: Corporate Secretary

Telephone: (514) 395-0337 ext. 2517
Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre
701 West Georgia
Vancouver, B.C. V7Y 1L2

Attention: Secretary to the Commission

Telephone: (604) 899-6534
Fax: (604) 899-6506
Email: commsec@besc.bc.ca

Ontario Securities Commission

20 Queen Street West
22nd Floor
Toronto, ON M5H 3S8

Attention: Director, Office of Domestic and International Affairs

Telephone: (416) 593-8084
Fax: (416) 595-8942
Email: talexopoulos@osc.gov.on.ca

MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Malta Financial Services Authority (Malta) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (**AMF**), the Ontario Securities Commission (**OSC**), the Alberta Securities Commission (**ASC**), the British Columbia Securities Commission (**BCSC**), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
- i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission


Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Malta Financial
Services Authority
(Malta)


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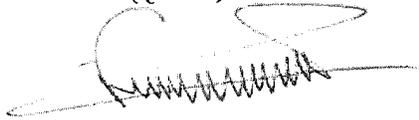
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Signatures

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Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Malta Financial
Services Authority
(Malta)



Appendix A

None

Appendix B

Malta Financial Services Authority (Malta)

Mr. Mike Duignan, Director,
Securities and Markets Supervision Unit
Telephone: +356 2548 5540
Email: mduignan@mfsa.com.mt

Alberta Securities Commission

Suite 600, 250-5th Street SW
Calgary, Alberta
T2P 0R4
Canada

Attention: Executive Director

Telephone: (403) 297-4698
Fax: (403) 355-4479
Email: kari.horn@asc.ca

Autorité des marchés financiers

800, Square Victoria, 22nd Floor
Box 246, tour de la Bourse
Montréal, QC
H4Z 1G3
Canada

Attention: Corporate Secretary

Telephone: (514) 395-0337 ext. 2517
Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre
701 West Georgia
Vancouver, B.C. V7Y 1L2

Attention: Secretary to the Commission
Telephone: (604) 899-6534
Fax: (604) 899-6506
Email: commsec@bcsc.bc.ca

Ontario Securities Commission

20 Queen Street West

22nd Floor

Toronto, ON M5H 3S8

Attention: Director, Office of Domestic and International Affairs

Telephone: (416) 593-8084

Fax: (416) 595-8942

Email: talexopoulos@osc.gov.on.ca

MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Autoriteit Financiële Markten (The Netherlands) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (*AMF*), the Ontario Securities Commission (*OSC*), the Alberta Securities Commission (*ASC*), the British Columbia Securities Commission (*BCSC*), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
- i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

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- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

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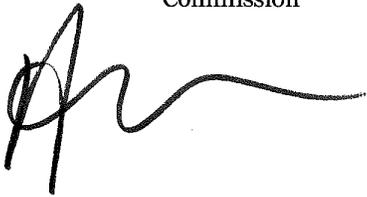
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Signatures

Ontario Securities
Commission

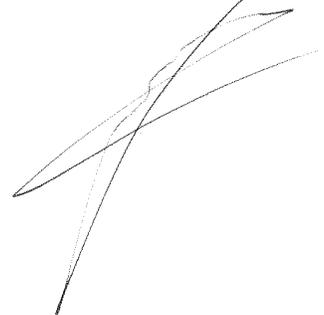


Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Autoriteit
Financiële Markten
(The Netherlands)



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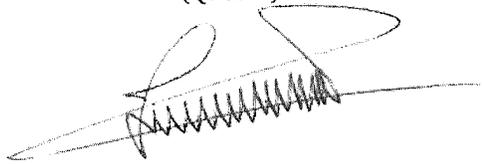
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marchés
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(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Autoriteit
Financiële Markten
(The Netherlands)

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- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

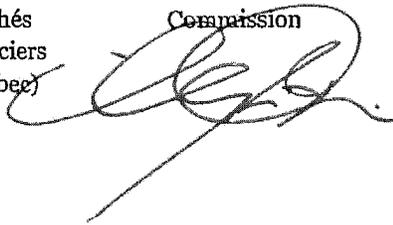
This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission



British Columbia
Securities
Commission

Autoriteit
Financiële Markten
(The Netherlands)

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

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This MoU enters into force on 22 July 2013.

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Commission

British Columbia
Securities
Commission

Autoriteit
Financiële Markten
(The Netherlands)



Appendix A

None

Appendix B

Autoriteit Financiële Markten (The Netherlands)

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Marco Boogaard
Manager
Alternative Investment Fund Managers Team
Strategy, Investment and International Affairs Division
Direct: +31 (0)20 797 20 26
Fax: +31 (0)20 797 38 02
Email: marco.boogaard@afm.nl

Alberta Securities Commission

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Calgary, Alberta
T2P 0R4
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Autorité des marchés financiers

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Box 246, tour de la Bourse
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Attention: Corporate Secretary

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Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission

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Attention: Secretary to the Commission
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Ontario Securities Commission

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Attention: Director, Office of Domestic and International Affairs

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MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Finanstilsynet (Norway) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (**AMF**), the Ontario Securities Commission (**OSC**), the Alberta Securities Commission (**ASC**), the British Columbia Securities Commission (**BCSC**), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
 - i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

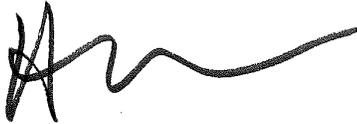
- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission



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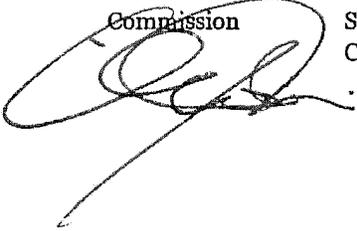
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Commission

British Columbia
Securities
Commission

Finanstilsynet
(Norway)

A handwritten signature in black ink, appearing to be a stylized name or set of initials, located below the list of signatories.

Appendix A

None

Appendix B

Finanstilsynet (Norway)

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Email: talexopoulos@osc.gov.on.ca

MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Polish Financial Supervision Authority (Poland) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (*AMF*), the Ontario Securities Commission (*OSC*), the Alberta Securities Commission (*ASC*), the British Columbia Securities Commission (*BCSC*), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
 - i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

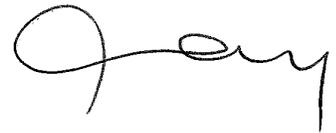


Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Polish Financial
Supervision
Authority (Poland)



gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

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Signatures

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Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Polish Financial
Supervision
Authority (Poland)

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gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

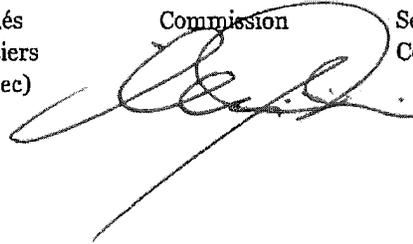
Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Polish Financial
Supervision
Authority (Poland)

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gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Polish Financial
Supervision
Authority (Poland)



Appendix A

None

Appendix B

Polish Financial Supervision Authority (Poland)

Komisja Nadzoru Finansowego
Plac Powstańców Warszawy 1
skr. poczt. 419
00-950 Warszawa
Telephone: (+48 22) 262 50 00

Mr. Damian Jaworski, Head of Analyses and International Cooperation
Department of Polish Financial Supervision Authority

Alberta Securities Commission

Suite 600, 250-5th Street SW
Calgary, Alberta
T2P OR4
Canada

Attention: Executive Director

Telephone: (403) 297-4698
Fax: (403) 355-4479
Email: kari.horn@asc.ca

Autorité des marchés financiers

800, Square Victoria, 22nd Floor
Box 246, tour de la Bourse
Montréal, QC
H4Z 1G3
Canada

Attention: Corporate Secretary

Telephone: (514) 395-0337 ext. 2517
Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre
701 West Georgia
Vancouver, B.C. V7Y 1L2

Attention: Secretary to the Commission

Telephone: (604) 899-6534
Fax: (604) 899-6506
Email: commsec@besc.bc.ca

Ontario Securities Commission

20 Queen Street West
22nd Floor
Toronto, ON M5H 3S8

Attention: Director, Office of Domestic and International Affairs

Telephone: (416) 593-8084
Fax: (416) 595-8942
Email: talexopoulos@osc.gov.on.ca

MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Comissão do Mercado de Valores Mobiliários (Portugal) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (*AMF*), the Ontario Securities Commission (*OSC*), the Alberta Securities Commission (*ASC*), the British Columbia Securities Commission (*BCSC*), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
- i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.



Ontario Securities
Commission

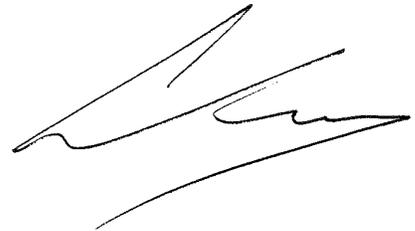
Autorité des
marchés
financiers
(Québec)

Signatures

Alberta Securities
Commission

British Columbia
Securities
Commission

Comissão do
Mercado de Valores
Mobiliários
(Portugal)



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- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

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Signatures

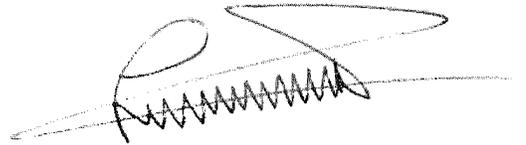
Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Comissão do
Mercado de Valores
Mobiliários
(Portugal)

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- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

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Signatures

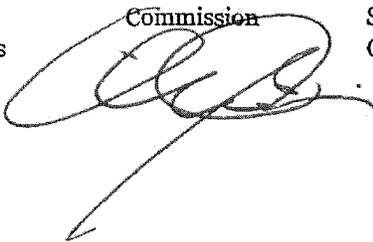
Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Comissão do
Mercado de Valores
Mobiliários
(Portugal)

A large, stylized handwritten signature in black ink, overlapping the text of the Alberta Securities Commission.

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Comissão do
Mercado de Valores
Mobiliários
(Portugal)



Appendix A

Instituto de Seguros de Portugal

Appendix B

Comissão do Mercado de Valores Mobiliários (Portugal)

Rua Laura Alves, 4 – 1050-138 Lisbon, Portugal

Telephone: +351 21 317 70 00 (geral)

Fax: +351 21 353 70 77

Margarida Matos Rosa

Head of Investment Management Department

Email: margaridamatosrosa@cmvm.pt

Manuel Ribeiro da Costa

Head of International and Regulatory Policy Department

Email: manuelcosta@cmvm.pt

Alberta Securities Commission

Suite 600, 250-5th Street SW

Calgary, Alberta

T2P 0R4

Canada

Attention: Executive Director

Telephone: (403) 297-4698

Fax: (403) 355-4479

Email: kari.horn@asc.ca

Autorité des marchés financiers

800, Square Victoria, 22nd Floor

Box 246, tour de la Bourse

Montréal, QC

H4Z 1G3

Canada

Attention: Corporate Secretary

Telephone: (514) 395-0337 ext. 2517

Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre
701 West Georgia
Vancouver, B.C. V7Y 1L2

Attention: Secretary to the Commission
Telephone: (604) 899-6534
Fax: (604) 899-6506
Email: commsec@besc.bc.ca

Ontario Securities Commission

20 Queen Street West
22nd Floor
Toronto, ON M5H 3S8

Attention: Director, Office of Domestic and International Affairs

Telephone: (416) 593-8084
Fax: (416) 595-8942
Email: talexopoulos@osc.gov.on.ca

MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Romanian National Securities Commission (Romania) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (*AMF*), the Ontario Securities Commission (*OSC*), the Alberta Securities Commission (*ASC*), the British Columbia Securities Commission (*BCSC*), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).

- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.

- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
- i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. "Covered Entity" means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) "Cross-border on-site visit" means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority's jurisdiction, for the purposes of on-going supervision.
- n) "Governmental Entity" means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) "Local Authority" means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) "Emergency Situation" means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) "ESMA" means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) "ESRB" means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

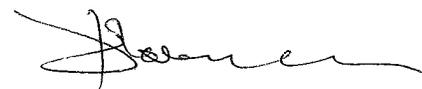
Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Romanian
Financial
Supervisory
Authority
(Romania)



gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Romanian
Financial
Supervisory
Authority
(Romania)

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

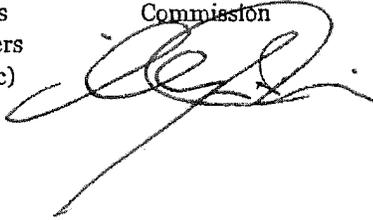
This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

A large, stylized handwritten signature in black ink, overlapping the text of the Alberta Securities Commission.

British Columbia
Securities
Commission

Romanian
Financial
Supervisory
Authority
(Romania)

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Romanian
Financial
Supervisory
Authority
(Romania)



Appendix A

None

Appendix B

Romanian National Securities Commission (Romania)

Mrs. Raluca Tariuc
Director
International Affairs Directorate

Telephone: 0040 21 326 67 75 - 355
Email: raluca.tariuc@cnavmr.ro

Alberta Securities Commission

Suite 600, 250-5th Street SW
Calgary, Alberta
T2P 0R4
Canada

Attention: Executive Director

Telephone: (403) 297-4698
Fax: (403) 355-4479
Email: kari.horn@asc.ca

Autorité des marchés financiers

800, Square Victoria, 22nd Floor
Box 246, tour de la Bourse
Montréal, QC
H4Z 1G3
Canada

Attention: Corporate Secretary

Telephone: (514) 395-0337 ext. 2517
Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre
701 West Georgia
Vancouver, B.C. V7Y 1L2

Attention: Secretary to the Commission
Telephone: (604) 899-6534
Fax: (604) 899-6506
Email: commsec@bcsc.bc.ca

Ontario Securities Commission

20 Queen Street West
22nd Floor
Toronto, ON M5H 3S8

Attention: Director, Office of Domestic and International Affairs

Telephone: (416) 593-8084
Fax: (416) 595-8942
Email: talexopoulos@osc.gov.on.ca

MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Národná banka Slovenska (Slovak Republic) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (**AMF**), the Ontario Securities Commission (**OSC**), the Alberta Securities Commission (**ASC**), the British Columbia Securities Commission (**BCSC**), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
- i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
- i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
- i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.



Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Signatures

Alberta Securities
Commission

British Columbia
Securities
Commission



Národná banka
Slovenska (Slovak
Republic)

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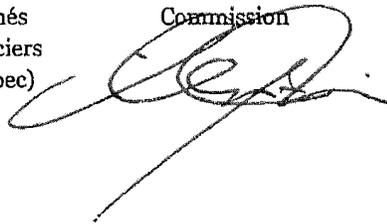
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Commission

British Columbia
Securities
Commission

Národná banka
Slovenska (Slovak
Republic)



Appendix A

None

Appendix B

Národná banka Slovenska (Slovak Republic)

Ing. Lubica Madelova
Regulation Department
National Bank of Slovakia
Telephone: +421 2 5787 3301
Fax: +421 2 5787 1118
Email: lubica.madelova@nbs.sk

Alberta Securities Commission

Suite 600, 250-5th Street SW
Calgary, Alberta
T2P 0R4
Canada

Attention: Executive Director

Telephone: (403) 297-4698
Fax: (403) 355-4479
Email: kari.horn@asc.ca

Autorité des marchés financiers

800, Square Victoria, 22nd Floor
Box 246, tour de la Bourse
Montréal, QC
H4Z 1G3
Canada

Attention: Corporate Secretary

Telephone: (514) 395-0337 ext. 2517
Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre
701 West Georgia
Vancouver, B.C. V7Y 1L2

Attention: Secretary to the Commission
Telephone: (604) 899-6534

Fax: (604) 899-6506
Email: commsec@bcsc.bc.ca

Ontario Securities Commission

20 Queen Street West
22nd Floor
Toronto, ON M5H 3S8

Attention: Director, Office of Domestic and International Affairs

Telephone: (416) 593-8084
Fax: (416) 595-8942
Email: talexopoulos@osc.gov.on.ca

MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Comisión Nacional del Mercado de Valores (Spain) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (**AMF**), the Ontario Securities Commission (**OSC**), the Alberta Securities Commission (**ASC**), the British Columbia Securities Commission (**BCSC**), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
 - i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
- i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
- i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

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- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

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Ontario Securities
Commission

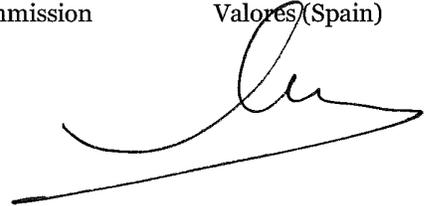


Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Comisión Nacional
del Mercado de
Valores (Spain)



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Article 11. Entry into force

This MoU enters into force on 22 July 2013.

Signatures

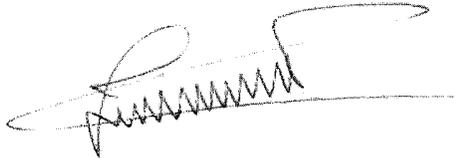
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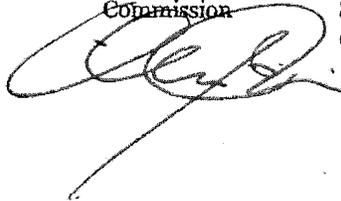
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Appendix A

Dirección General de Seguros (Insurance Authority)

Appendix B

Comisión Nacional del Mercado de Valores (Spain)

Calle Edison 4
28006 Madrid
Spain

Antonio Mas
Santiago Yraola
Department of International Affairs

Telephone: 00 34 91 585 16 55
00 34 91 585 15 00

Email: mas@cnmv.es
yraola@cnmv.es

Alberta Securities Commission

Suite 600, 250-5th Street SW
Calgary, Alberta
T2P OR4
Canada

Attention: Executive Director

Telephone: (403) 297-4698
Fax: (403) 355-4479
Email: kari.horn@asc.ca

Autorité des marchés financiers

800, Square Victoria, 22nd Floor
Box 246, tour de la Bourse
Montréal, QC
H4Z 1G3
Canada

Attention: Corporate Secretary

Telephone: (514) 395-0337 ext. 2517
Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre

701 West Georgia

Vancouver, B.C. V7Y 1L2

Attention: Secretary to the Commission

Telephone: (604) 899-6534

Fax: (604) 899-6506

Email: commsec@bcsc.bc.ca

Ontario Securities Commission

20 Queen Street West

22nd Floor

Toronto, ON M5H 3S8

Attention: Director, Office of Domestic and International Affairs

Telephone: (416) 593-8084

Fax: (416) 595-8942

Email: talexopoulos@osc.gov.on.ca

MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Finansinspektionen (Sweden) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (*AMF*), the Ontario Securities Commission (*OSC*), the Alberta Securities Commission (*ASC*), the British Columbia Securities Commission (*BCSC*), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
- i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
 - i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
 - i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

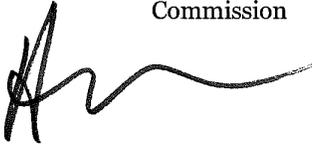
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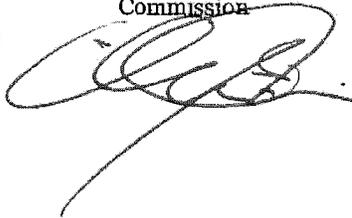
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(Sweden)



Appendix A

None

Appendix B

Finansinspektionen (Sweden)

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www.fi.se

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Direct: +46 8 787 80 64

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Alberta Securities Commission

Suite 600, 250-5th Street SW
Calgary, Alberta
T2P OR4
Canada

Attention: Executive Director

Telephone: (403) 297-4698

Fax: (403) 355-4479

Email: kari.horn@asc.ca

Autorité des marchés financiers

800, Square Victoria, 22nd Floor
Box 246, tour de la Bourse
Montréal, QC
H4Z 1G3
Canada

Attention: Corporate Secretary

Telephone: (514) 395-0337 ext. 2517

Email: louise.sorel@lautorite.qc.ca

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre
701 West Georgia
Vancouver, B.C. V7Y 1L2

Attention: Secretary to the Commission
Telephone: (604) 899-6534
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Ontario Securities Commission

20 Queen Street West
22nd Floor
Toronto, ON M5H 3S8

Attention: Director, Office of Domestic and International Affairs

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MoU concerning consultation, cooperation and the exchange of information related to the supervision of Managers of alternative investment funds

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and Financial Conduct Authority (United Kingdom) on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

- a) "Authority" means :
 - i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or
 - ii. The Autorité des marchés financiers (Québec) (**AMF**), the Ontario Securities Commission (**OSC**), the Alberta Securities Commission (**ASC**), the British Columbia Securities Commission (**BCSC**), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).
- b) "Requested Authority" means :
 - i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or
 - ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.
- c) "Requesting Authority" means the Authority making a request under this MoU.

- d) “EU competent authority”: means any authority appointed in an EU or an European Economic Area (EEA) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.¹
- e) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.
- f) “Manager” means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an “EU Manager” means a Manager that is established in an EU member state and a “Canadian Manager” means a Manager that is registered in one or more jurisdictions of a Canadian Authority.
- g) “Covered Fund” means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an “EU Covered Fund” means a Covered Fund that is domiciled in an EU member state and a “Canadian Covered Fund” means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.
- h) “UCITS” means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.
- i) “Delegate” means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.
- j) “Depositary” means an entity appointed to perform the depositary functions of a Covered Fund.
- k) “Operate(s) on a cross-border basis” includes the following situations:
 - i. EU Managers managing Canadian Covered Funds,
 - ii. EU Managers marketing Canadian Covered Funds in an EU Member State,
 - iii. EU Managers marketing Canadian and/or non-Canadian Covered Funds in Canada,
 - iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,
 - v. EU Managers marketing Canadian Covered Funds in the EU with a passport,
 - vi. Canadian Managers managing EU Covered Funds,
 - vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,
 - viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,
 - ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

¹ Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

- x. Non-Canadian managers marketing EU Covered Funds in Canada
- l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. “Covered Entity” means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.
- m) “Cross-border on-site visit” means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority’s jurisdiction, for the purposes of on-going supervision.
- n) “Governmental Entity” means:
- i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;
 - ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;
 - iii. The Alberta Ministry of Treasury and Finance, if the Requesting Authority is the ASC;
 - iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;
 - v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;
 - vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and
 - vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.
- o) “Local Authority” means the Authority in whose jurisdiction a Covered Entity is physically located.
- p) “Emergency Situation” means:
- i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (Regulation 1095/2010/EU); and
 - ii. In Canada, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets
- q) “ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).
- r) “ESRB” means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

- 1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of non-public information where necessary.
- 2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU 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 MoU.
- 3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.
- 4) This MoU complements, but does not alter the terms and conditions of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the "IOSCO MMoU"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.
- 5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:
 - a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;
 - b) Where a request for assistance is not made in accordance with the terms of the MoU; or
 - c) On the grounds of the public interest.
- 6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.
- 7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.
- 8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

- 1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.
- 2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:
 - a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;
 - b) The on-going oversight of a Covered Entity; or
 - c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.
- 3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of
 - a) Any known material event that could have a significant adverse impact on a Covered Entity; and
 - b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.
- 4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:
 - a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;
 - b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;
 - c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;
 - d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

- e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

- 1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.
 - b) 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.
 - c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

- 1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
 - 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 regulations and relevant provisions behind the supervisory activity; and
 - c) The desired time period for reply and, where appropriate, the urgency thereof.
- 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.

Article 7. Permissible uses of information.

- 1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

- 2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU. Banca d'Italia is not a signatory to the IOSCO MMoU, however, for the purposes of this MoU, Banca d'Italia agrees to be governed and bound by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information.

- 1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, 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. The terms of this MoU are not confidential.
- 2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been 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.
- 3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:
 - a) The Requesting Authority will notify the Requested Authority.
 - b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.
- 4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will 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.
- 5) 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.
- 6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:
 - a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a

credit institution or other systemically relevant institutions in other EU Member States.

- b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.
 - c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.
- 7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the Canadian Authority at the time of sharing non-public information with another EU Authority. ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.
 - 8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

- 1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.
- 2) The EU Authority shall notify the Canadian Authority of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If the Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of the Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.
- 3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.
- 4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

- 1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority

gives written notice to the others. If either 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 Article 7 to 9.

- 2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on 22 July 2013.



Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Signatures

Alberta Securities
Commission

British Columbia
Securities
Commission



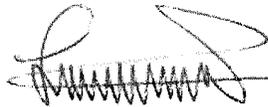
Financial Conduct
Authority (United
Kingdom)

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Signatures

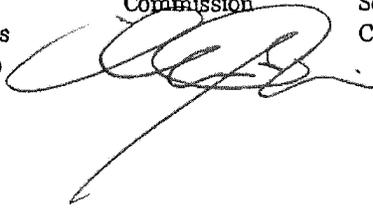
Ontario Securities
Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
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Financial Conduct
Authority (United
Kingdom)

A large, stylized handwritten signature in black ink, overlapping the text of the Alberta Securities Commission and extending downwards.

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Signatures

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Commission

Autorité des
marchés
financiers
(Québec)

Alberta Securities
Commission

British Columbia
Securities
Commission

Financial Conduct
Authority (United
Kingdom)

A handwritten signature in black ink, appearing to be a stylized name or set of initials, located below the list of signatories.

Appendix A

Prudential Regulation Authority

Appendix B

Financial Conduct Authority (United Kingdom)

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