

**Memorandum of Understanding between the New York State Banking Department and the Financial and Capital Market Commission of the Republic of Latvia concerning their co-operation and exchange of information in the field of supervision of banks and their cross-border establishments**

1. The New York State Banking Department (NYSBD) and the Financial and Capital Market Commission of the Republic of Latvia (FCMC), hereinafter referred to jointly as the Authorities, have reached an understanding in order to promote efficient, coherent and resource-effective cross-border supervision, to facilitate the performance of their respective duties, and to promote the safe and sound functioning of banks and their cross-border establishments in their respective countries as well as establish an arrangement for the sharing of supervisory information.
2. This Memorandum of Understanding ("Memorandum") also demonstrates the commitment of the Authorities to the principles of consolidated supervision and cooperation between and among banking regulators as laid down in the Basel Concordats on the Supervision of Cross Border Banking and on the Core Principles for effective banking supervision.
3. The Memorandum serves as a basis for cooperation between the Authorities. It is not considered to be an international agreement within the meaning of US or Latvian laws. Consequently, it neither establishes any legally binding obligations nor supersedes any laws and regulations in force, either in the US or the Republic of Latvia. This Memorandum does not establish any rights enforceable by the parties hereto or third parties, nor does it affect any provisions adopted in other memoranda of understanding.
4. The Authorities express, through this Memorandum, their willingness to cooperate with each other on the basis of mutual trust and understanding in the supervision of banks and their cross-border establishments licensed or maintained in the US and the Republic of Latvia. A cross-border establishment refers to an establishment in the host country which may be a branch, agency or representative office ("office"), or a subsidiary. As used in this Memorandum, the term "bank" means a banking organization chartered or organized under the laws of the home country regulator and includes investment companies organized under Article 12 of the New York Banking Law.

Sharing of Information

5. The Authorities recognize that information should be shared in support of the objective to facilitate and meet requirements for effective consolidated supervision of internationally operating banks. Information sharing would include contact during the authorization process, including both issuance and revocation of any license, as well as contact regarding the supervision and licensing of the ongoing activities of banks and their cross-border establishments. Consequently, the two Authorities intend to:
  - a) Notify the host supervisor, without delay, of applications for approval to set up cross-border establishments in the host country. In addition, upon

request, the home supervisor would inform the host supervisor whether the applicant bank is in compliance with banking laws and regulations and whether the bank may be expected, given its administrative structure and internal controls, to manage the cross-border establishment in an orderly manner. The Authorities shall consult in the course of the licensing procedure to consider an application for authorization to form a subsidiary or office of a bank, as well as in the course of an acquisition or increasing of a qualifying holding (10, 20, 33 and 50%) in a domestic bank within the jurisdiction of the other Authority.

- b) Share information that may impact adversely on the capability, integrity, or experience of the prospective managers of a cross-border establishment. Prior to the actual appointment of managers of cross-border establishments, to the extent reasonable and consistent with law, on request, the home country Authority will disclose available information to the host-country that might be useful in assessing the ability, professional skills and fitness of potential candidates for management positions. The home country Authority will also provide available information that might give rise to doubts as to the prospective managers of the cross-border establishments.
- c) Notify the home supervisor and provide relevant information regarding any material developments or supervisory concerns in respect of the operations of a banking organization or its cross-border establishment in the host country.
- d) Respond to requests for information on any aspects of their respective national regulatory systems and inform each other about any major changes, in particular about those that have a significant bearing on the activities of banks and their cross-border establishments established in the host country.
- e) Endeavor to inform the host supervisor, in a timely manner and to the extent reasonable, about any event which has the potential to endanger the stability of banks or their cross-border establishments in the other country.
- f) Inform the Authority in the other country of administrative penalties imposed, or any other formal enforcement action taken, against a cross-border establishment (as host supervisor) or on the bank (as home supervisor). The home supervisor may judge whether the information is important to the host supervisor and whether it relates to the operation of the bank or its cross-border establishment.

### Supervisory Cooperation

6. NYSBD is allowed to carry out inspections or examinations of the Latvian offices and subsidiaries of the US banks that it supervises. At the same time, FCMC is allowed to carry out inspections or examinations of the New York offices and subsidiaries of banks organized in the Republic of Latvia. The Authorities undertake to notify the other Authority of plans to inspect or to examine a cross-border establishment at least 30 days prior to commencement, indicating the purpose of the visit and the aspects of the establishment they wish to explore. The date of the visit should be determined in a co-ordinated manner between the two Authorities. The Authority of the host country is entitled to participate in such an inspection.
7. Each Authority may consider the possibility of requesting the other Authority to undertake inspection or examination on behalf of the requesting Authority. In such a case a requesting Authority will retain full responsibility for supervisory decisions and actions.
8. A cross-border establishment may, in accordance with the relevant laws and regulations of the host country, provide any kind of information that might be relevant for the purpose of consolidated supervision, to the home supervisor.
9. The Authorities will inform each other without delay if they learn of an incipient crisis relating to any bank which has cross-border establishment(s) or parent bank(s) in the other country, provided such crisis can potentially have an important impact on a cross-border establishment or on the parent bank.
10. The Authorities will endeavor to cooperate and share information when they identify financial crime activities in banks that carry out cross-border activities in the other country, including, but not limited to, money laundering and unauthorized banking.
11. The Authorities will conduct meetings as often as appropriate to discuss issues concerning banks which maintain cross-border establishments in the other country. Whenever appropriate, ad hoc meetings should be arranged to resolve serious supervisory problems concerning cross-border establishments.

### Professional Secrecy

12. Information will be shared between the Authorities to the extent reasonable and subject to any relevant statutory provisions, including those restricting disclosure. In addition, the provision of, or request for, information under the Memorandum may be denied on grounds of public interest or national security or when disclosure would unduly interfere with an ongoing investigation or administrative process.



13. The Authorities consider that any information obtained in accordance with the principles of this Memorandum should be used exclusively for lawful supervisory purposes, including enforcement actions, as determined under the relevant laws.
14. To the extent permitted by law, each Authority will hold confidential all information received pursuant to this Memorandum (other than publicly available information) and will not disclose such information other than as necessary to carry out its lawful supervisory responsibilities.
15. In the case where an Authority is legally compelled to disclose confidential information received under this Memorandum, it is understood that such Authority will cooperate in seeking to preserve the confidentiality of the information to the extent permitted by law. In all cases of disclosure to third parties, to the extent permitted by law, the Authority disclosing the information will notify the Authority that originated the information of such disclosure.
16. In the case where an Authority receives a request for information, but disclosure is not legally compelled or necessary to carry out the Authority's lawful supervisory responsibilities, the Authority receiving the request will consult and obtain the prior written consent of the Authority that originated the information before releasing it.

#### General Provisions

17. Whenever a specific request is made in the framework of the Memorandum, these requests shall be formulated in written form to the respective Authority. However, where the Authorities perceive a need for expedited action, requests may be initiated in any form, but should be confirmed subsequently in writing within 10 business days.
18. The Authorities may publish this Memorandum on their websites.
19. The Authorities may promote their cooperation through visits for informational purposes.
20. This Memorandum is concluded for an indefinite period of time. The Memorandum will be reviewed from time to time in the light of the mutual experiences and future developments in legislation and may be terminated upon 30 days written notice by either of the Authorities, provided that the Authorities have consulted on the matter in advance.

21. In case of termination of the Memorandum it will continue to have effect with respect to both Authorities obligations and liabilities derived from paragraphs 13, 14 and 15 of the Memorandum.

Signed for and on behalf of the New York State Banking Department:

By: Richard H. Neiman Date: November 2, 2007  
Richard H. Neiman  
Superintendent of Banks

Signed for and on behalf of the Financial and Capital Market Commission of the Republic of Latvia:

By: [Signature] Date: November 2, 2007  
Uldis Cerps  
Chairman