



Parassth
31.07.2000.

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
BANK OF LATVIA
AND THE
BUNDESAUFSICHTSAMT FÜR DAS KREDITWESEN
CONCERNING THEIR COOPERATION
IN THE FIELD OF SUPERVISION
OF CREDIT INSTITUTIONS**

1. The Bank of Latvia („the Latvian authority“) and the German Bundesaufsichtsamt für das Kreditwesen („BAK“), both hereinafter referred to jointly as „the Authorities“ express their willingness to cooperate on the basis of mutual trust and understanding and agree to base their cooperation in the field of supervision of credit institutions as defined in the relevant laws on the principles and procedures outlined in this Memorandum. For the purpose of this Memorandum „cross border establishment“ means a branch or a subsidiary of a credit institution within the Authorities jurisdiction in the respective other country. A subsidiary is defined as a credit institution in which a parent institution of the other country holds directly or indirectly participating interests of at least fifty per cent of the capital or of the voting rights.

2. The Latvian authority supervises banks and other credit institutions according to Article 10 and 11 of the Law on the Bank of Latvia and shall ensure that mandatory regulations issued by it are observed. A credit institution in the Republic of Latvia shall operate as a bank or as a credit union, or a branch of a foreign bank.

3. As central body in accordance with the German Banking Act (BA) and other special laws, the BAK, which was established in 1962, is entrusted with the supervision of banks and investment firms in Germany. As (organisationally) independent superior federal authority within the purview of the Ministry of Finance, the BAK forms a part of the direct federal administration. Exercising its sovereign functions, the BAK closely cooperates with the Deutsche Bundesbank which assists in carrying out the supervision of banks and investment firms. The BAK and the Deutsche Bundesbank are hereinafter jointly referred to as "German banking supervisors".

Information regarding institutions

4. The Authorities intend to cooperate in the supervision of cross-border establishments of credit institutions incorporated in the respective other country and within their respective jurisdiction. The scope of cooperation encompasses the licensing (both issuance and revocation) as well as the ongoing supervision of the cross-border establishments, be they branches or subsidiaries. The Authorities advise each other on cross-border establishments in or from the respective other country upon specific request to the extent allowed under their laws. The BAK will pass on information received by the Latvian authority to the Deutsche Bundesbank, with regard of the domestic allocation of responsibility and in accordance with the provisions of this Memorandum of Understanding.

Licensing

5. If a credit institution based in one of the two countries applies to the Authorities of the other country to establish a branch, the latter is hold to inform the home-country authority without delay. If the adequacy of home supervision is a statutory prerequisite which the host-country authority needs to address in the licensing procedure, it would contact the home-country authority to settle any question in this regard.

6. The home-country authority informs the host-country authority of the amount of own funds and the solvency ratio of the parent institution, and whether it is fully subject to and complies with the domestic banking regulation, and whether it is expected in the light of its administrative structure and internal control to run the cross-border establishment in an orderly and proper manner. The home-country authority discloses any piece of information available to the host-country authority which might give rise to doubts as to the fit- and propeness of the prospective managers of the cross-border establishment.

Cooperation concerning owner control

7. Within the present Memorandum a qualified interest is defined as a part of the own capital or voting rights when the national legislation of the respective Authority provide for a notice to or permission of that Authority to increase or reduce respective participating interests in credit institution.

In case a credit institution or a parent institution of a credit institution authorised in the home country or a natural or legal person controlling the credit institution authorised in the home country proposes to acquire a qualified interest in a credit institution authorised in the host country, the Authorities shall inform each other about the said and, upon request, shall

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provide each other with the necessary information. Prior consultations between the Authorities shall be held in case the earlier mentioned credit institution or a parent institution of a credit institution, or a natural or legal person applies for a permission to increase the qualified interest to the level when the national laws in the country of a respective Authority provide for a notice to or a permission of the Authority.

Ongoing supervision; corrective action

8. The Latvian authority and the German banking supervisors inform each other, in good time and to the extent reasonable, about any event which has the potential to endanger the stability of credit institutions having cross-border establishments in the respective other country. They also notify each other on administrative penalties which they have imposed or any other action which they have taken on such a cross-border establishment as host supervisor or on the parent institution as home supervisor if the information in their judgement is possibly important to the Authorities.

9. The Latvian authority and the German banking supervisors discuss between each other any significant information on credit institutions having cross-border establishments in the other country that might be relevant to the other authority. Relevant matters are in particular concerns about financial soundness of an institution (failure to meet capital adequacy or other financial requirements, significant losses, rapid decline in profits or a deterioration in profitability), concerns relating to compliance or control procedures, concerns arising from supervisory visits, prudential interviews or reports from and communications with an institution or other regulatory body, concerns arising from late or inaccurate prudential returns and concerns relating to supervisory arrangements in third countries.

10. Representatives of the Latvian authority and the German banking supervisors convene for ad-hoc meetings to promote the resolution of supervisory problems concerning a cross-border establishment in the respective other country, whenever either side deems necessary to do so.

11. For institutions which are not licensed in Latvia and in Germany respectively and which apply for a licence with one of the Authorities, the Latvian authority and the BAK will, as far as they are able, discuss any significant information available to them which might be relevant to the other Authority.

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Crisis situations, Bankruptcy, Winding-up

12. The Latvian authority and the German banking supervisors will inform each other without delay if they learn of an incipient crisis relating to any institution supervised by either which has cross-border establishments or parent institution in the respective other country. In either case, the host country authority shall collaborate with the home country authority if supervisory countermeasures are to be taken by the latter. Moreover, the host country maintains the right to apply its own procedures concerning the winding up and reorganization of cross-border establishments to cross-border establishments that are on the verge of bankruptcy.

Customer complaints

13. Complaints about a particular cross-border establishment or credit institution providing services lodged by customers with the host country authority will be handled by the latter on their own responsibility. They will be free to correspond directly with the cross-border establishment. They will, if necessary, pass on their findings to the home country authorities. The host country authorities are free to turn over to the home country authorities complex cases calling for the special expertise and knowledge of the latter. The latter will handle complaints lodged with the home country authorities. If the particular conditions in the host country are of relevance, the home country authorities will consult with the host country authorities, and eventually advise them for their decision.

14. In Germany, the BAK is not empowered to intervene as fact-finder, mediator or arbitrator in a civil case as the sole jurisdiction over those matters is allotted to the ordinary judicial authorities. Any complaint against institutions laid with the BAK would only be examined in order to find out whether supervisory measures should be taken on the grounds that the queried activities of the institution showed deficiencies in the fit- and propeness of the management or even amounted to harmful tendencies in the banking and financial services industry (cf. Section 6 (2) and (3) BA).

Similarly in Latvia, the Latvian authority is not empowered to intervene as an investigator or arbitrator in civil or criminal cases because this authority is granted to the law enforcement agencies. Where the Latvian authority discovers any infringement in the performance of a credit institution, it reviews that from the viewpoint of supervision and is entitled to provide information about such infringements to the State Revenue Service, the prosecutor's office, the state police and other state institutions that are entitled to launch an inquest and a pre-trial investigation.

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On-site inspections and audits

15. The Authorities agree that cooperation is particularly useful in assisting each other in carrying out on-site inspections of cross-border establishments. The Latvian authority will allow the BAK or the examiners commissioned by it, to carry out inspections of branches and subsidiaries of German credit institutions in Latvia. In return, the BAK will allow the Latvian authority to carry out inspections of branches and subsidiaries of Latvian credit institutions in Germany.

16. The Authorities shall notify in writing each other in advance of any inspection, giving details of the names of the examiners, the purpose of the audit and its expected duration. The Authorities will allow each other to accompany any such on-site inspection carried out either by the Authorities themselves or the auditors commissioned by the Authorities. The Authorities will inform each other of the results of the inspection in the form agreed upon separately from case to case.

Professional secrecy

17. Compliance with the obligation of professional secrecy by all employees who receive confidential information from the other Authority in the course of their activities is a necessary condition for a successful cooperation between the Authorities. The Authorities agree that any confidential information shared through these arrangements will be used only for lawful supervisory purposes. To the extent permitted by law, the Authorities will maintain the confidentiality of all information received in the framework of these arrangements from each other and will not disclose any such information unless it is necessary for carrying out their supervisory responsibilities and without first obtaining the prior consent of the other authority. The Authorities will, if it receives any legally enforceable demand for information received from the other authority or acquired in the course of an on-site inspection in the other authority's jurisdiction, promptly notify the other authority and will cooperate in seeking to preserve the confidentiality of such information. The BAK will pass on the information received from the Latvian authority to the Deutsche Bundesbank as to the extent that information is of significance for the performance of the Deutsche Bundesbank as outlined in Section 7 BA.

Technical arrangements

18. In order to enhance the quality of cooperation, representatives of the Latvian authority and the German banking supervisors convene regularly to discuss issues concerning credit

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institutions that maintain cross-border establishments within their respective jurisdiction. In these meetings they will also review the effectiveness of these arrangements. The Latvian authority and the German banking supervisors intend to promote their cooperation by visits for informational purposes and by exchange of staff for practical internships.

19. The Authorities will ensure that they send each other the relevant lists of institutions that they have authorised. They advise each other upon request on any aspect of their regulatory systems and notify about any major change in their domestic rules and regulations within their jurisdiction, in particular about those changes which have a significant bearing on the activities of cross-border establishments.

20. Cooperation and assistance in accordance with this Memorandum of Understanding will continue until the expiration of 30 days after either Authority gives written notice to the other Authority of its intention to discontinue cooperation and assistance. The authorities will correspond with each other in English. If either Authority gives such notice, cooperation and assistance in accordance with this Memorandum will continue with respect to all requests for assistance that were made before the effective date of notification until the requesting Authority withdraws the matter for which assistance was requested. In the event of termination of this Memorandum, information obtained under this Memorandum of Understanding will continue to be treated confidentially.

21. This Memorandum of Understanding shall remain in existence until either party notifies the other in writing of its wish to revise, amend or withdraw from the Memorandum. One months notice of any such action will be given.

22. The Authorities agree to delegate the powers and rights of this Memorandum of Understanding to their successors, giving a written notice one month prior to that intention.

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Kari Ruuska

Riga, 31 July 2000


Berlin, 19 July 2000

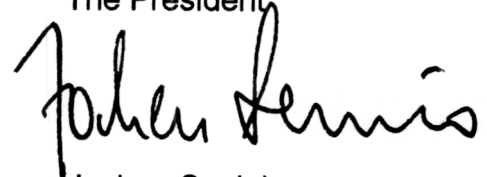
For the
Bank of Latvia

For the
Bundesaufsichtsamt für das
Kreditwesen

The Governor

The President



(E. Repše)



(Jochen Sanio)



G. Cerbule
Latvijas Bankas
Kreditistāžu uzraudzības pārvaldes
Juridiskās un licencēšanas daļas
licencēšanas eksperts

31.07.2000.


A. Sileniece
Latvijas Bankas
galvenā grāmatveide
vietniece


I. Krastiņa
Latvijas Bankas
juriskonsulte

31.07.2000.


U. Ramm
1.08.2000.

