



**SUPERINTENDENCIA**  
DE BANCA, SEGUROS Y AFP  
República del Perú

## **MEMORANDUM OF UNDERSTANDING**

**CAYMAN ISLANDS**

**Cayman Islands  
Monetary Authority**

**PERU**

**Superintendency of  
Banking, Insurance and  
Private Pension Fund  
Administrators**

Superintendency of Banking, Insurance  
and Private Pension  
Fund Administrators  
Los Laureles N° 214,  
Lima 27  
PERU  
Tel: (51) (1) 630 9000

Cayman Islands Monetary Authority  
PO Box 10052  
80 Shedden Road  
Elizabethan Square  
Grand Cayman KY1-1001  
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## Memorandum of Understanding ("MoU")

Between

**Cayman Islands Monetary Authority  
("CIMA")**

and

**Superintendency of Banking, Insurance  
and Private Pension Fund Administrators  
("SBS")**

### Recitals

- A. CIMA was established as a body corporate on 1 January 1997 as a result of the merger of the former Financial Services Supervision Department and Cayman Islands Currency Board. Its statutory functions are set out in the Monetary Authority Law 1996, namely (a) currency management, (b) regulation and supervision of financial services (including monitoring procedures for the prevention of money laundering), (c) advice to the government and (d) liaison with overseas regulators.
- B. The Superintendency of Banking, Insurance and Private Pension Fund Administrators (SBS) is an autonomous institution, established in 1931, that is responsible for the supervision of the Peruvian financial and insurance systems, as well as the private pension fund system. Its objectives and functions emerge from the General Law of the Financial System and Insurance System, and Organic Law of the Superintendency of Banking and Insurance, Law N° 26702 (General Law).
- C. CIMA and the SBS ("the Authorities") wish to enter into this MOU to provide a formal basis for co-operation, including for the exchange of information and investigative assistance. CIMA and the SBS believe such co-operation will enable them more effectively to perform their functions.

*MS*

*[Handwritten mark]*



## Operative Part

### Interpretation

1. In this MoU, unless the context requires otherwise:
  - "administering" an applicable law, regulation or requirement includes enforcing the same;
  - "applicable laws, regulations and requirements" means any law, regulation or requirement applicable in the Cayman Islands and/or in Peru, and where the context permits includes:
    - (a) any law, regulation or requirement applicable in the Cayman Islands or Peru; and
    - (b) any rule, direction, requirement, guidance or policy made or given by or to be taken into account by an Authority;
  - "Authority" means CIMA or SBS and "Authorities" means CIMA and SBS;
  - "cross -border establishment" means a branch, subsidiary, representative office, or any other business activity of a banking organization within either of the countries which, by common agreement, gives rise to the need for consolidated supervision;
  - "permitted onward recipient" means an agency or authority responsible for prosecuting, regulating or enforcing applicable laws, regulations and requirements falling within the areas of responsibility of the Authorities;
  - "person" means a natural person, legal entity, partnership or unincorporated association.

### Purpose and Principles

2. The purpose of this MoU is to establish a formal basis for co-operation, including the exchange of information and investigative assistance.
3. This MoU does not modify or supersede any laws or regulatory requirements in force in, or applying to, the Cayman Islands or Peru. This MoU sets forth a statement of intent and accordingly does not create any enforceable rights. This MoU does not affect any arrangements under other MoU's.
4. The Authorities acknowledge that they may only provide information under this MoU if permitted or not prevented under applicable laws, regulations and requirements.

### Provision of Unsolicited Information

5. The Authorities may provide information, or arrange for information to be provided, on a voluntary basis even though no request has been made. The terms and conditions of this MoU will apply if the providing Authority specifies that it is passing the information under this MoU.

### Requests for Mutual Cooperation and/or Assistance

6. If a request for mutual cooperation and/or assistance is made, each Authority will use reasonable efforts to provide assistance to the other, subject to its laws, regulations and requirements.

Assistance may include for example:

- (a) providing information in the possession of the requested Authority;



- (b) confirming or verifying information provided to it for that purpose by the requesting Authority;
- (c) exchanging information on or discussing issues of mutual interest;
- (d) obtaining specified information and documents from persons;
- (e) questioning or taking testimony of persons designated by the requesting Authority;
- (f) conducting inspections or examinations of financial services providers or arranging for the same; and
- (g) permitting the representatives of the requesting Authority to participate in the conduct of enquiries made by or on behalf of the requested Authority pursuant to paragraphs (e) – (f) above.

#### Information Sharing

7. Information sharing will take place in accordance with the Procedure for Requests set out in Clause 8 hereof and to the extent authorized by the laws, regulations and requirements of the country of each Authority, and consistent with its own policies and procedures, in connection with the ongoing supervision of cross-border establishments, the Authorities intend to:
- (a) Provide relevant information to their counterpart regarding material developments or material supervisory concerns in respect of the operations of a cross-border establishment;
  - (b) Opportunely respond to requests for information on their respective national regulatory systems and inform each other about major changes, in particular those which have a significant bearing on the activities of cross-border establishments;
  - (c) Inform their counterpart of material administrative penalties imposed in the past two (2) years, or other formal enforcement actions taken, against a cross-border establishment. Notification shall be made, as far as practicable and subject to applicable laws;
  - (d) Provide on an annual basis, financial information on Cross-Border Establishments, and in particular the following:
    - Individual and consolidated financial statements, with their respective notes when, according to each country's applicable Laws, Regulations and Requirements, those should be prepared.
    - Detail of the portfolio including, when applicable, credit trusts managed by banks, together with the name and identification number of the trustees and beneficiaries of such credit agreements (promissory notes), as well as the detail of this portfolio.
    - Detail of the investment portfolio of Cross-Border Establishments.
    - Access to credit portfolio details of Cross-Border Establishments, including client names and conditions



- Results of on-site supervisory process performed by the respective authority on a Cross-Border Establishment.
  - Information related to the quality of the management of risks of Banking Organizations, Financial Institutions and Cross-Border Establishments.
- (e) Facilitate the transmission of any other relevant information that might be required to assist with the supervisory process.

The term "material supervisory concern" encompasses a matter relating to (a) whether the operations of a banking organisation are conducted in a safe and sound manner and substantially in conformity with applicable prudential standards; (b) whether there has been evidence of a material violation of law; or (c) events that would have a material adverse effect on the financial stability of banking organisations in the jurisdiction of the other authority. A material supervisory concern as described herein would include concerns that arise from actions of cross-border establishments of the banking organisation.

#### Procedure for Requests

8. Requests for the provision of information or other assistance will be made in writing. To facilitate assistance, the requesting Authority should specify in any written request:
- (a) the information or other assistance requested (identity of persons, specific questions to be asked etc.);
  - (b) if information is provided by the requesting Authority for confirmation or verification, the information and the kind of confirmation or verification sought;
  - (c) the purpose for which the information or other assistance is sought;
  - (d) to whom, if anyone, onward disclosure of information provided to the requesting Authority is likely to be necessary and, in relation to onward disclosure to a person who is not a permitted onward recipient, the purpose such disclosure would serve;
  - (e) if the request for assistance is for the purpose of actual or possible enforcement action, the matters set out in clause 1 of Appendix 1; and
  - (f) any other matters specified by the requested Authority and by the applicable laws, regulations and requirements in relation to the requested Authority.
9. In urgent circumstances, the requested Authority will accept a request for assistance and will expedite to the extent possible a reply thereto by summary procedures or by means of communication other than the exchange of letters. Such urgent communications must be confirmed in writing as prescribed above by the contact person set out in Appendix 2 within ten business days.



### Assessing Requests

10. Each request for assistance will be assessed on a case-by-case basis by the requested Authority to determine whether assistance can be provided under the terms of this MoU. In any case where the request cannot be fulfilled in part or whole, the requested Authority will consider whether there may be other assistance which can be given by itself or by any other authority in its jurisdiction.
11. In deciding whether and to what extent to fulfil a request, the requested Authority may take into account:
  - (a) whether the request conforms with this MoU;
  - (b) whether the request involves the administration of a law, regulation or requirement which has no close parallel in the jurisdiction of the requested Authority;
  - (c) whether the provision of assistance would be so burdensome as to disrupt the proper performance of the requested Authority's functions;
  - (d) whether it would be otherwise contrary to the public interest or the essential national interest of the requested Authority's jurisdiction to give the assistance sought;
  - (e) if the request for assistance is for the purpose of actual or possible enforcement action, the further matter set out in clause 2 of Appendix 1;
  - (f) any other matters specified by the laws, regulations and requirements of the requested Authority's jurisdiction (in particular those relating to confidentiality and professional secrecy, data protection and privacy, and procedural fairness); and
  - (g) whether complying with the request may otherwise be prejudicial to the performance by the requested Authority of its functions.
12. The Authorities recognise that assistance may be denied in whole or in part for any of the reasons mentioned in paragraph 11 at the discretion of the requested Authority.
13. Where the requested Authority denies a request for assistance or where assistance is not available under the law of the jurisdiction of the requested Authority, the requested Authority will provide the reasons why it is not granting the assistance.

### Contact Points

14. The Authorities will provide a list of contact points to which information or requests for information or assistance under this MOU should be directed. This list is included in Appendix 2 of this MoU and following the signature of this MoU the Authorities shall maintain it duly updated.

### Further Provisions

15. The further provisions set out in:
  - (a) Appendix 1 will apply in relation to actual or possible enforcement matters;



- (b) any other Appendices covering specific areas of financial services or specific issues, as agreed in writing by the Authorities, will apply.

#### **Costs**

16. If the cost of fulfilling a request is likely to be substantial, the requested Authority may, as a condition of agreeing to give assistance under this MoU, require the requesting Authority to assume such costs or part thereof.

#### **Crisis Management**

17. The Authorities will mutually inform, on a timely basis, if they know about an incipient crisis in relation to a supervised institution with a head office, parent banking or cross –border establishment in the other country. This information will be provided subject to legal and confidentiality requirements applicable in each jurisdiction.
18. The Authorities will cooperate, coordinate and share information during a crisis; in that regard, without prejudice to provide additional information, they will share an analysis of the possible systemic, liquidity and solvency impact of the crisis, as well as the contingency plans.

#### **Confidentiality**

19. The Authorities will, to the full extent permitted by the laws, regulations and rules of their respective jurisdictions, keep confidential:-
20. (a) Any request for assistance or information pursuant to this Memorandum of Understanding;
- (b) Any information received or provided pursuant to this Memorandum of Understanding; and
- (c) Any matter arising during the operation of this Memorandum of Understanding, including consultations and unsolicited assistance.
21. The requesting Authority shall not disclose the assistance or information obtained pursuant to this Memorandum of Understanding to third parties without the prior consent of the requested Authority.
22. Notwithstanding the provisions of paragraphs 17 and 18, the confidentiality provisions of this Memorandum of Understanding shall not prevent the Authorities from informing the law enforcement or regulatory bodies in its jurisdiction of the request or from passing information received pursuant to a request provided that:
- (a) Such agencies or bodies have responsibility for prosecuting, regulating or enforcing rules or laws falling within the scope of this Memorandum of Understanding; or
- (b) The purpose of passing on such information to such an agency or body falls within the scope of this Memorandum of Understanding; and





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- (c) An undertaking has been obtained from the recipient by the Requested Authority that it will maintain the confidentiality of the information.
23. The Authorities confidential treatment of assistance and information will continue when either Authority gives notice of its intent to cease co-operation under this Memorandum of Understanding. The Authorities understand that the laws, regulations and rules of their respective jurisdictions place limitations on use and disclosure of non-public information obtained pursuant to this Memorandum of Understanding.

#### Consultation

24. The Authorities will keep the operation of this MoU under review and will consult when necessary with a view to improving its operation and resolving any matters.
25. Where the specific conduct set out in the request for assistance may constitute a breach of a law, regulation or requirement in both the territory of the requesting and the requested Authorities, the relevant Authorities will consult to determine the most appropriate means for each Authority to provide assistance.

#### Commencement

26. This MoU will take effect when both Authorities have signed it and will continue to have effect until terminated by either Authority giving 30 days advance written notice to the other Authority. If either Authority gives such notice, this MoU will continue to have effect with respect to all requests for assistance that the Authorities made before the effective date of notification until the requesting Authority terminates the matter for which it requested assistance. This MoU may be amended by agreement in writing.

#### Executed by the Authorities:

For Cayman Islands Monetary Authority

Name and title: CINDY SCOTLAND  
Managing Director

For Superintendency of Banking, Insurance and  
Private Pension Fund Administrators

Name and title: MARIA DEL SOCORRO HEYSEN  
Superintendent of Banking, Insurance  
and Private Pension Fund  
Administrators

Date: 4 January 2018

Date: 31 January 2018



## Appendix 1: Further Procedures for Enforcement Matters

### Further details to be contained in requests for assistance

1. If a request for assistance as described in this MoU relates to actual or possible enforcement action, the following further details will be contained in the request:
  - (a) a description of the conduct or suspected conduct which gives rise to the request;
  - (b) details of the applicable law, regulation or requirement to the administration of which the request is relevant;
  - (c) the link between the specified rule or law and the regulatory functions of the requesting Authority;
  - (d) the relevance of the requested assistance to the specified rule or law; and
  - (e) whether it is desired that, to the extent permitted by the laws applying to the requested Authority, any persons from the country of the requesting Authority should be present during interviews which form part of an investigation, and whether it is desired that such persons should be permitted to participate in the questioning (as to which see clause 3 below).

### Further ground for denial of request

2. If a request for assistance as described in this MoU relates to actual or possible enforcement action, the following further matter may be taken into account by the requested Authority in determining whether to fulfil the request in whole or in part:
  - whether the request would lead to the prosecution of, or the taking of disciplinary or other enforcement action against, a person who in the opinion of the requested Authority has already been appropriately dealt with in relation to the alleged breach the subject-matter of the request.

### Requests to Sit in

3. If, following a request from the requesting Authority, the requested Authority conducts an interview of any person, the requested Authority may permit a representative of the requesting Authority to attend such an interview and to ask questions. Such requests will be in accordance with the applicable laws, regulations and requirements of the requested Authority. Requests for such assistance should conform to any published guidance for the making of such requests issued by the requested Authority.

### Joint Investigations

4. The Authorities acknowledge that, subject to secrecy and confidentiality issues, an investigation, where it concerns suspected breaches of the law of both jurisdictions, may be conducted more effectively by the establishment of a joint investigation involving members from both Authorities.



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5. The Authority suggesting the joint investigation will advise the other Authority of the background to the request for a joint investigation, and liaise with the other Authority to determine the likely objectives of the joint investigation, the expected resources required and the approximate duration of the proposed joint investigation. Each Authority will advise the other as soon as possible as to whether it will agree to such an investigation.
6. If the Authorities agree to take part in a joint investigation, an agreed initial action plan will be prepared setting out, among other things, the objectives, expected duration, funding, publicity and accountability arrangements, management of the joint investigation, and allocation of responsibilities.
7. Suggestions to CIMA for a joint investigation should be made, through **Anna McLean**, Deputy Managing Director - Supervision. Suggestions to the SBS should be made to **Rubén Mendiola**, Deputy Superintendent of Banking & Microfinance Institutions

#### **Rights of persons preserved**

8. Any person providing testimony, information or documents as a result of a request made under this MoU will be entitled to all the rights and protections of the laws of the jurisdiction of the requested Authority. Where assertions are made regarding other rights and privileges arising exclusively pursuant to the laws of the jurisdiction of the requesting Authority, the Authorities will consult to determine the most appropriate way to proceed.



**APPENDIX 2**  
**LIST OF CONTACT DETAILS**

**CAYMAN ISLANDS MONETARY AUTHORITY**

Contact: Cindy Scotland  
Managing Director

Phone: (345)244-1530  
Fax: (345)945-6125  
Email: [c.scotland@cimoney.com.ky](mailto:c.scotland@cimoney.com.ky)

Alternate contact: Anna McLean  
Deputy Managing Director - Supervision

Phone: (345)244-1558  
Fax: (345)947-3320  
Email: [A.McLean@cimoney.com.ky](mailto:A.McLean@cimoney.com.ky)

**SUPERINTENDENCY OF BANKING, INSURANCE AND PRIVATE PENSION FUND ADMINISTRATORS**

Contact: María del Socorro Heysen  
Superintendent of Banking, Insurance and Private Pension Fund Administrators

Phone: (51) 1 630-9011  
Fax: (51) 1 630-9200  
Email: [sheysen@sbs.gob.pe](mailto:sheysen@sbs.gob.pe)

Alternate contact: Rubén Mendiola  
Deputy Superintendent of Banking and Microfinance Institutions

Phone: (51) 1 630-9021  
Fax: (51) 1 630-9213  
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