Memorandum of Understanding

between

The Reserve Bank of India

and

Reserve Bank of New Zealand

4 November 2013
The Reserve Bank of India and Reserve Bank of New Zealand have reached the following understanding in order to establish an arrangement for the sharing of supervisory information and the enhancing of cooperation in the area of banking supervision.

I. INTRODUCTION

1. The Functions of the Banking Supervisory Authorities

(a) The Reserve Bank of India

The Reserve Bank of India (RBI) is responsible for the regulation and supervision of banking organisations in accordance with India legislation. The RBI subscribes and is committed to the principles of effective consolidated supervision and cooperation between banking supervisors and its responsibilities as set out in the Basel Committee’s Concordat and Core Principles for Effective Banking Supervision.

(b) Reserve Bank of New Zealand (RBNZ) is responsible for the regulation and supervision of banks, non-bank deposit takers and insurers in accordance with relevant New Zealand legislation. It is committed to working with overseas counterparts on a home-host basis consistent with Basel Committee’s Concordat and Core Principles for Effective Banking Supervision

2. The RBI and RBNZ agree to work to:

(a) ensure that the operations of the cross-border establishments of banking organisations under their respective jurisdictions are prudently conducted;

(b) ensure that the head offices and parent banking organisations exercise adequate and effective control over the operations of their cross-border branches and subsidiaries; and

(c) ensure that their respective ongoing supervision of banking organisations effectively covers cross-border banking establishments on a consolidated basis and assists each other in performing such function.

II. DEFINITIONS

3. For the purpose of this Memorandum:

(a) “banking organisation” shall mean in India, an institution authorised to carry on banking business under Section 22 of the Banking Regulation Act, 1949 or permitted under any other enactment or statutory instrument and for the supervision of which the RBI is responsible, and shall mean in New Zealand an authorised (or prospectively authorised) legal institution/affiliate (or parts thereof) whose activities include banking
business and the business of taking deposits from the general public and with operations supervised (or prospectively supervised) by RBNZ;

(b) "cross-border establishment" shall mean a branch or subsidiary of a parent banking organisation within one jurisdiction which falls under the consolidated supervision of the other jurisdiction;

(c) "Authorities" shall mean the RBI and RBNZ;

(d) "jurisdiction" shall mean the country, state or other territory, as the case may be, in which the RBI or RBNZ has legal authority, power and/or jurisdiction by law;

(e) "Home Authority" shall mean the authority of the country where the parent banking organisation is established;

(f) "Host Authority" shall mean the authority of the country where cross-border establishments are established;

(g) "Requested Authority" shall mean the authority to whom a request is made pursuant to this Memorandum; and

(h) "Requesting Authority" shall mean the authority that makes a request pursuant to this Memorandum.

III. INFORMATION SHARING

4. The Authorities recognise the importance and desirability of mutual assistance and exchange of information. Information should be shared to the extent reasonable and subject to any relevant statutory provisions, including those restricting disclosure.

5. Information-sharing includes contact during the authorisation and licensing process, during supervision of on-going activities and handling of problem situations.

6. In connection with the authorisation process:

(a) the Host Authority should notify the Home Authority, without delay, of applications for approval to establish a cross-border establishment;

(b) upon request, the Home Authority should inform the Host Authority whether the applicant banking organisation is in substantial compliance with applicable laws and regulations and whether it may be expected, given its administrative structure and internal controls, to manage the cross-border establishment in an orderly manner. The Home Authority should also, upon request, assist the Host Authority by verifying or
supplementing any information submitted by the applicant banking organisation;

(c) upon request, the Home Authority should inform the Host Authority about the nature of its regulatory system and the extent to which it will conduct consolidated or group-wide supervision of the applicant banking organisation. Similarly, the Host Authority should indicate the nature of its regulatory system and the extent to which it will supervise the cross-border establishments of the applicant banking organisation; and

(d) to the extent permitted by law, the Home and Host Authorities should share information on the fitness and propriety of prospective managers of a cross-border establishment.

7. 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) 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, or other formal enforcement actions taken, against a cross-border establishment. Prior notification shall be made, as far as practicable and subject to applicable laws; and

(d) facilitate the transmission of any other relevant information that might be required to assist with the supervisory process.

8. 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.

9. Where remedial action is called for to address a material supervisory concern as described above, each authority will endeavour to notify the other authority prior to it taking the appropriate action or, as circumstances dictate, as soon thereafter as practicable, to the extent possible and appropriate.
10. In carrying out the undertakings stipulated above in the case of an India or New Zealand banking organisation facing serious financial difficulties that could have a material adverse impact on the operations of such banking organisation in the respective host jurisdiction, the Authorities recognise that close liaison between them would be mutually advantageous. The Authorities will endeavour to communicate such information as would be appropriate in the particular circumstances, taking into account all relevant factors, including the status of efforts by the Home Authority to resolve the bank's difficulties and restore confidence in the bank.

11. The Authorities shall co-operate and share relevant information in the process of decision-making with regard to granting permission (consent) to acquiring shares (stakes) by persons or institutions registered in one country of a banking organisation registered in the other country. The term "acquisition" shall mean the acquisition of a participatory interest in the capital of a banking organization registered within India or New Zealand in the amount that requires, under national legislation, preliminary permission (consent) from the appropriate banking supervisory authority.

12. Requests for information should normally be made in writing in English. However, when there is a need for expedited action, requests may be initiated in any form, including orally, but should be confirmed subsequently in writing. The authority receiving such requests will endeavor to provide the information as quickly as possible.

IV. ON-SITE EXAMINATIONS

13. The Home Authority shall notify the Host Authority of its intention to conduct an on-site examination of cross-border establishments in the host country and may require conditions as it deems fit. The Host Authority may assist in such examinations and inform the Home Authority of any subject matter in which it has a particular concern or interest.

14. The Home Authority may request on an exceptional basis the Host Authority to conduct an on-site examination of cross-border establishments in the host country. The Authorities will endeavour to establish the basis and terms upon which such examinations are to be conducted.

15. In addition to the procedures outlined in chapter III, upon written request signed by an authorised official of the Requesting Authority, the Requested Authority may, to the extent reasonable and permitted by law, provide the Requesting Authority with information contained in reports of examinations or inspections concerning the cross-border establishment that is obtained as part of the supervisory process. In addition to the procedures outlined in chapter III, such information normally would not include customer account information unless this is of particular relevance only to the supervisory concern prompting the request.
16. As may be mutually agreed between the Authorities, examinations may be carried out by the Home Authority alone, or accompanied by the Host Authority. Following the examination, an exchange of views should take place between the examination team and the Host Authority.

17. The Host Authority will communicate the findings of any on-site examination of cross-border establishments in the host country to the Home Authority, to the extent reasonable and permitted by law.

V. CONFIDENTIALITY

18. Any confidential information shared pursuant to this Memorandum shall be used only for lawful supervisory purposes.

19. To the extent permitted by law, the Authorities shall hold confidential all information received from each other pursuant to this Memorandum and will not otherwise disclose or act on such information other than in accordance with such conditions (if any) attached by the providing Authority and as necessary to carry out its lawful supervisory responsibilities.

20. All documents provided pursuant to this Memorandum shall remain the property of the Authority providing such information. Subject to the provisions of paragraphs 18-19 above, if the RBI or RBNZ is legally compelled to disclose any confidential information provided pursuant to this Memorandum, the RBI or RBNZ, as the case may be, will to the extent reasonable and permitted by law, notify the Authority that originated the information and will exercise its best endeavours to preserve the confidentiality of such information.

21. Subject to the provisions of paragraphs 20-23 inclusive, with regard to requests from third parties for confidential information provided pursuant to this Memorandum, the Authority receiving such requests will, as soon as feasible prior to releasing such information, to the extent reasonable and permissible, notify the providing Authority and solicit the providing Authority’s views as to the propriety of releasing such information to the third party, and will cooperate in seeking to preserve the confidentiality of such information.

22. The sharing of confidential information pursuant to this Memorandum is done in reliance on the foregoing assurances and shall not constitute a waiver of any legally cognizable privilege.

23. The RBI and RBNZ, in providing confidential written materials pursuant to this Memorandum, should mark every page of the materials provided with a legend reading
substantially as follows:

"CONFIDENTIAL - PROVIDED PURSUANT TO RBI / RBNZ MEMORANDUM OF UNDERSTANDING".

24. All personnel likely to use the information shared within the framework of the present agreement remain subject to the professional secrecy rules provided by the India legislation for the RBI employees and New Zealand legislation for RBNZ employees.

25. Nothing in this MOU shall require or be deemed to require either of the Authorities to provide information or assistance, the disclosure or provision of which is restricted or prohibited by law or to act in any manner which amounts to violation of the provisions of law.

VI. MEETINGS OF THE AUTHORITIES

26. Representatives of the Authorities intend to hold meetings in case of necessity to discuss general developments in banking organisations which maintain operations in both India and New Zealand.

27. Representatives of both Authorities will also endeavour to participate in the meetings of Colleges of Supervisors concerning banking groups supervised on a consolidated basis either by the RBI or by RBNZ and with presence in both New Zealand and India.

VII. GENERAL PROVISIONS

28. The provision of, or request for, information under this Memorandum may be denied (a) where compliance would require the RBI or RBNZ to act in a manner that would violate applicable law or any agreement entered into before the date of this Memorandum; (b) when compliance with a request or provision of information would interfere with an investigation in circumstances where the prejudice to the investigation is likely to outweigh the adverse effects of denying the information; (c) on grounds of public interest or national security; or (d) any other legitimate ground, which in the opinion of the Authority concerned is likely to have an adverse impact on the effective discharge of its functions.

29. This Memorandum shall be effective from the date of its signing. It shall continue in effect for a period of one year from the latest date entered below and shall automatically be renewed each year until terminated by either party by giving 30 (THIRTY) days prior written notice, provided, however, that: the provisions set forth under the headings "Confidentiality" and "General Provisions" are to continue with respect to any information provided or actions taken under this Memorandum prior to its termination.
30. Any revision or amendment of this Memorandum shall only become valid after such revision or amendment has been accepted in writing by both Authorities.

31. This Memorandum is a statement of intent and does not, and is not intended to create any legally binding obligations on either Authority.

32. By signing or acting under this Memorandum, neither Authority waives any immunity from suit or privilege to which it may be entitled nor submits to the jurisdiction of any court that would not have been a court of competent jurisdiction if this Memorandum had not been executed.

33. No provision of this Memorandum is intended to give rise to the right of any person, entity or governmental authority, directly or indirectly, to obtain any information or to challenge the execution of a request for information under this Memorandum.

34. Each Authority expects to bear the expenses incurred by them in the implementation of this MOU. If it appears that an Authority is likely to incur substantial costs in responding to a particular request for information it may approach the other Authority with a view to negotiating a cost-sharing arrangement in relation to the provision of that information.

35. Any difference derived from the interpretation or application of the provisions of this Memorandum of Understanding shall be solved by the Authorities in common agreement.

X. MISCELLANEOUS

36. Two copies of this Memorandum are prepared in the English language.

37. Annex A contains a list of designated contact officers, which shall be updated as necessary.
CONFIRMED:

For the Reserve Bank of India

Keshab Chandra

DATE: 09-11-2013

For Reserve Bank of New Zealand

DATE: 14 November 2013
Annex A

DESIGNATED CONTACT OFFICERS

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