

Dated 23 January 2018

Co-operation Agreement

Hong Kong Monetary Authority,
Hong Kong Special Administrative Region



Swiss Financial Market Supervisory Authority
FINMA



finma

Eidgenössische Finanzmarktaufsicht FINMA
Autorité fédérale de surveillance des marchés financiers FINMA
Autorità federale di vigilanza sui mercati finanziari FINMA
Swiss Financial Market Supervisory Authority FINMA

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Swiss Financial Market Supervisory Authority FINMA
Laupenstrasse 27
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Switzerland

Co-operation Agreement between

Hong Kong Monetary Authority ("HKMA")

and

Swiss Financial Market Supervisory Authority ("FINMA")

1. Definitions

For the purposes of this Co-operation Agreement, unless the context requires otherwise:

"Authority" means FINMA or HKMA; and collectively, shall be referred to as "the Authorities";

"Authorisation" means the process of licensing, registering, approving, authorising or otherwise bringing an entity under either Authority's supervisory remit so that it is authorised to carry on business in providing a financial service or issuing a financial product in the relevant Authority's jurisdiction, and "Authorised" has a corresponding meaning;

"Confidential Information" means any non-public information obtained by an Authority from the other Authority pursuant to this Cooperation Agreement;

"Innovator Business" means an innovative financial business that has been offered support from an Authority through its Innovation Function, or would qualify for such support;

"Innovation Function" means the dedicated function established in each Authority to support innovation in financial services in their respective markets;

"Receiving Authority" means the Authority that is receiving an Innovator Business referral or information relating to that referral;

"Referring Authority" means the Authority that is referring an Innovator Business to the Receiving Authority; and

"Regulations" means any regulation or regulatory requirement applicable in the jurisdiction of an Authority.

2. Introduction

- 2.1. The Authorities share a mutual desire to co-operate with the aim of encouraging and enabling innovation in financial services in their respective markets and of supporting Innovator Business in meeting the Regulations in each other's jurisdictions as may be required. Both Authorities have established Innovation Functions in order to do so. The Authorities believe that through co-operation with each other, they will be able to further the support of innovation in their respective markets.

Background to the two Authorities Innovation Functions

- 2.2. The HKMA established the Fintech Facilitation Office (FFO) to facilitate the healthy development of the fintech ecosystem in Hong Kong and to promote Hong Kong as a fintech hub in Asia. The roles of the FFO include acting as a platform for exchange of ideas and initiatives; an interface between market participants and the HKMA; an initiator of relevant industry research and a facilitator to nurture talents.
- 2.3. FINMA encourages innovation and competitiveness in the Swiss financial market. FINMA is consistently removing unnecessary regulatory hurdles that may hinder Innovator Businesses market entry. It is also enabling Innovator Businesses to have swift access to the Swiss financial market by providing specific support which includes:
 - 2.3.1. a Fintech Desk as a single point of contact for Innovator Businesses;
 - 2.3.2. specific assistance for Innovator Businesses in understanding the Swiss regulatory framework and in establishing whether their business model requires Authorisation; and
 - 2.3.3. a dedicated contact person for Innovator Businesses during the pre-Authorisation or Authorisation process or both.
- 2.4. FINMA provides support to all Innovator Businesses irrespective of whether they are domiciled in Switzerland or abroad.

3. Purpose

- 3.1. The purpose of this Co-operation Agreement is to provide a framework for co-operation between the Innovation Functions of each Authority. This Co-operation Agreement sets out how the Authorities intend to share and use information on innovation in their respective markets.

4. Principles

- 4.1. The Authorities intend to provide the fullest possible mutual assistance to each other within the terms of this Co-operation Agreement. This Co-operation Agreement operates subject to the domestic laws and Regulations of each Authority and does not modify or supersede any laws or regulatory requirements in force in, or applying to, Hong Kong or Switzerland. This Co-operation Agreement sets forth a statement of intent and accordingly does not create any enforceable rights, and is not legally binding.

5. Scope of Assistance

Referral mechanism

- 5.1. The Authorities will refer to each other Innovator Businesses that would like to operate in the other Authority's jurisdiction. The Receiving Authority intends to assist the Innovator Businesses in understanding the regulatory regime under the Receiving Authority's remit, and how such regimes may be relevant to them.

Information sharing

- 5.2. The Authorities intend to share information about innovations in financial services in their respective markets, where appropriate. This may include, but is not limited to:
 - 5.2.1. emerging market trends and developments;
 - 5.2.2. regulatory and policy issues pertaining to innovation in financial services; and
 - 5.2.3. any other relevant issues on Fintech.

Potential joint innovation projects

- 5.3. The Authorities intend to consider participating in joint innovation projects on the application of novel financial technologies.

Expertise sharing and secondment

- 5.4. Each Authority may allow its staff, as appropriate, to give presentations and conduct training sessions for the other Authority to share expertise and knowledge.
- 5.5. Authorities may second their staff on attachment to the other Authority on a case-by-case basis, subject to such terms and conditions as may be agreed.

6. Confidentiality & Permissible Uses

- 6.1. Any information disclosed by one Authority to the other Authority under this Co-operation Agreement, unless otherwise stated, should be treated by the other Authority as Confidential Information.
- 6.2. A Referring Authority may only send information about an Innovator Business to a Receiving Authority if the Referring Authority has received prior consent from the Innovator Business that it may so do.
- 6.3. A Receiving Authority may use information about a referred Innovator Business only for the purpose of providing help to the referred Innovator Business through the Receiving Authority's Innovation Function and as allowed by the law of the Receiving Authority's jurisdiction.
- 6.4. The Authorities may use any information disclosed to it by the other Authority only for the purposes for which the information was disclosed, unless the other Authority consents to other uses.

- 6.5. If either Authority is required to disclose any information provided to it by the other Authority pursuant to a requirement of law, such Authority should, to the extent possible, notify the other Authority prior to complying with such a requirement and should, to the extent possible, assert all appropriate legal exemptions or privileges with respect to such information as may be available.

7. Contact points

- 7.1. To facilitate co-operation under this Co-operation Agreement, each Authority will designate a contact point as specified in Appendix 1.

8. Term

- 8.1. This Co-operation Agreement takes effect from the date of execution and will continue to have effect until terminated by either of the Authorities by the giving of at least 30 days' written notice of termination to the other Authority.
- 8.2. Termination of this Co-operation Agreement does not affect obligations under any existing memorandum of understanding between the two Authorities.
- 8.3. In the event of the termination of this Co-operation Agreement, information obtained under this Co-operation Agreement will continue to be treated in the manner set out under paragraph 6.

9. Amendment

- 9.1. The Authorities intend to review the operation of this Co-operation Agreement and update its terms as required. The Authorities acknowledge that review may be required if there is a material change to the respective Innovation Functions of the Authorities.
- 9.2. This Co-operation Agreement may be amended if both Authorities agree in writing to do so.

Executed by the Authorities:

HKMA

For FINMA

Norman TL Chan, Chief Executive

Mark Branson, Chief Executive Officer

Date: 23 January 2018

Rupert Schaefer, Head of Strategic Services

Date: 23 January 2018

Appendix 1: Authority-wide Contact Details

HKMA: Chief Fintech Officer
Fintech Facilitation Office
The Hong Kong Monetary Authority
55th Floor, Two International Finance Centre
8 Finance Street
Central
Hong Kong

Email: fintech@hkma.gov.hk
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3003 Bern
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