

13 June 2017

Co-operation Agreement

AUSTRALIA

Australian Securities &
Investments Commission



ASIC

Australian Securities & Investments Commission

HONG KONG

Securities and Futures Commission



SFC

證監會

**SECURITIES AND
FUTURES COMMISSION**

證券及期貨事務監察委員會

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Co-operation Agreement between
Australian Securities and Investments Commission (ASIC)
Level 5, 100 Market Street
Sydney NSW 2000

and

Hong Kong Securities and Futures Commission (SFC)
35/F, Cheung Kong Center
2 Queen's Road Central, Hong Kong

1. Definitions

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

"Authority" means ASIC or SFC; and collectively, shall be referred to as "the Authorities";

"Financial technologies", or "Fintech", is used to describe a variety of business models and emerging technologies that have the potential to supplement or disrupt the financial services industry.¹

"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 act as the centralized contact point for Innovator Businesses;

"Laws and regulations" means any law, regulation or regulatory requirement applicable in the jurisdiction of an Authority;

"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

"Regulatory technologies", or "Regtech", is used to describe technologies used by entities to comply with regulatory requirements more effectively and efficiently. It is also used to describe the deployment of technology by regulators themselves to achieve more efficient and effective oversight.

¹ Innovative Fintech business models typically offer one or more specific financial products or services in an automated fashion through the use of the internet. Examples include robo-advisors as well as platforms for investment, trading, peer-to-peer lending and equity crowdfunding. Emerging technologies include big data analytics, cognitive computing, machine learning, artificial intelligence and distributed ledger technology.

2. Introduction

- 2.1. The Authorities share a mutual desire to stay abreast of innovation in financial services in their respective markets. Both Authorities have established Innovation Functions in order to do so:
 - 2.1.1. ASIC established an Innovation Hub in March 2015 to assist innovative Fintech businesses navigate ASIC's regulatory system. Through its Innovation Hub, ASIC engages with the Fintech community, provides assistance to innovative Fintech start-ups and liaises with Fintech experts through ASIC's Digital Finance Advisory Committee.
 - 2.1.2. The SFC established the Fintech Contact Point (FTCP) in March 2016 to enhance communication with businesses involved in the development and application of Fintech and Regtech in Hong Kong. The purpose of the Fintech Contact Point is to facilitate the Fintech and Regtech community's understanding of the current regulatory regime, and to enable the SFC to stay abreast of the development of Fintech and Regtech in Hong Kong.

3. Purpose

- 3.1. The purpose of this Co-operation Agreement is to provide a framework for co-operation and referrals between the Innovation Functions of each Authority. It also sets out how the Authorities plan 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 one another 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 Australia. This Co-operation Agreement sets forth a statement of intent and accordingly does not create any enforceable rights, and is not legally binding. This Co-operation agreement does not affect any arrangements under any existing Memorandum of Understanding, including Multilateral Memoranda of Understanding.

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 trends and developments;
 - 5.2.2. Regulatory issues pertaining to innovation in financial services; and
 - 5.2.3. Information on organisations or bodies which lead efforts to promote innovation in financial services.

Potential joint innovation projects

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

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. An Authority that receives confidential information under this Co-operation Agreement will only disclose that information in accordance with the disclosure permitted under its applicable laws and requirements. The Authorities intend that the sharing or disclosure of confidential information will not constitute a waiver of privilege or confidentiality of such information.
- 6.3. 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.
- 6.4. A Receiving Authority should use information about a referred Innovator Business only for the purpose of providing support to the referred Innovator Business through the Receiving Authority's Innovation Function and to seek to ensure compliance with the law of the Receiving Authority's jurisdiction.
- 6.5. The Authorities should 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.
- 6.6. 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 notify the other Authority prior to complying with such a requirement and should assert all appropriate legal exemptions or privileges with respect to such information as may be available.

7. Term

- 7.1. 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.
- 7.2. Termination of this Co-operation Agreement does not affect obligations under the existing Memorandum of Understanding between the two Authorities.
- 7.3. 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.

8. Amendment

- 8.1. The Authorities will review the operation of this Co-operation Agreement and update its terms as required.
- 8.2. This Co-operation Agreement may be amended if both Authorities agree in writing to do so.

Executed by the Authorities:

For SFC

Ashley Alder
Chief Executive Officer
Securities and Futures Commission

Date:

13/6/17

For ASIC

Cathie Armour
Commissioner
Australian Securities and Investments Commission

Date:

13 June 2017

Appendix 1: Authority-wide Contact Details

ASIC: International Co-operation Requests
Level 5, 100 Market Street
Sydney NSW 2000
Email: international@asic.gov.au;
Cc: innovationhub@asic.gov.au

SFC: Fintech Contact Point
Securities and Futures Commission
35/F, Cheung Kong Center
2 Queen's Road Central, Hong Kong
Email: fintech@sfc.hk