



ASIC

Australian Securities & Investments Commission

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Dear Mr Shirakawa

**EXCHANGE OF LETTERS ON CO-OPERATION FRAMEWORK BETWEEN
THE AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION AND THE FINANCIAL
SERVICES AGENCY OF JAPAN**

The Australian Securities and Investments Commission (ASIC) would like to co-operate with the Financial Services Agency of Japan (FSA) in order to promote innovation in our respective markets. Given the global nature of innovation in financial services, it is particularly important that we are able to both share information, and ensure the efficient entry of Innovator Businesses into our respective markets.

I am therefore very pleased to enhance ASIC's co-operation with FSA on matters of innovation in financial services, as set out in this letter.

This letter is a statement of ASIC's intent and does not create any legally binding obligations upon the ASIC or the FSA. Nothing in this letter will affect the competence of ASIC or the FSA under their respective national laws.

This Exchange of Letters ("EoL") operates in accordance with, and complements, the existing Statement of Intent between ASIC and FSA dated 3rd September 2004 and other bilateral or multilateral arrangements including International Organization of Securities Commissions Multilateral Memorandum of Understanding dated May 2002. This letter does not supersede these arrangements.

1. Definitions

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

"Authorisation" means the process of licensing, registering, approving, authorising or otherwise bringing an entity under either Authority's regulatory ambit so that they are authorised to carry on business in providing a financial service or issuing a financial product in the relevant Authority's jurisdiction;

"Authority" means ASIC or the FSA; and collectively referred to as "the Authorities";

"Criteria for Support" means the criteria of a Referring Authority that an Innovator Business is required to meet before the Referring Authority will refer the Innovator Business to a Receiving Authority;

"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 both Authorities to promote innovation in financial services in their respective markets;

"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

2. Introduction

- 2.1. The Authorities share a mutual desire to promote innovation in financial services in their respective markets. 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 promotion of innovation in their respective markets.

Background to the two Authorities' Innovation Functions

- 2.2. In March 2015, ASIC established an Innovation Hub 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.
- 2.3. In December 2015, the FSA established 'FinTech Support Desk' within the FSA as a one-stop contact point for Fintech businesses. With the co-operation of supervisory bureau and planning bureau, FinTech Support Desk supports Innovator Businesses through consultation and exchange of information on matters regarding their fintech-related business such as applicability of financial regulation in order to promote financial innovation.

Support offered through the Innovation Functions

- 2.4. The support offered by the Authorities to Innovator Businesses through their Innovation Functions includes:
- 2.4.1. A dedicated team and/or a dedicated contact for each Innovator Business;
- 2.4.2. Help for Innovator Businesses to understand the regulatory framework in the relevant Authority's jurisdiction, and how it applies to them;
- 2.4.3. Assistance during the pre-authorisation application phase to:

- 2.4.3.1. Discuss the authorisation application process and any regulatory issues that the Innovator Business has identified; and
- 2.4.3.2. Ensure the Innovator Business understands the relevant Authority's regulatory regime and what it means for them.
- 2.4.4. Support during the authorisation process, including the allocation of authorisation staff to consider the application that are knowledgeable about financial innovation in their respective markets. This may also include implementation of a specialised process for Innovator Businesses; and
- 2.4.5. A dedicated contact and the provision of assistance for a period of one year after an Innovator Business is authorised, as and when circumstances require.

3. Purpose

- 3.1. The purpose of this Co-operation Framework is to provide a framework for co-operation and referrals between the Innovation Functions of each Authority. The framework centres on a referral mechanism which will enable the Authorities to refer Innovator Businesses between their respective Innovation Functions. 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 Framework. This Co-operation Framework 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, Australia or Japan. This Co-operation Framework 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, through their Innovation Functions, will refer to each other Innovator Businesses that would like to operate in the other's jurisdiction.
- 5.2. Referrals will be made in writing, and should include information demonstrating that the Innovator Business seeking to operate in the Receiving Authority's jurisdiction meets, or would meet, the Referring Authority's Criteria for Support. Each Authority should maintain its own Criteria for Support. The Criteria for Support applies to new and existing Innovator Businesses and should include the following:
 - 5.2.1. the Innovator Business should offer innovative products that benefit the consumer and/or industry;
 - 5.2.2. the Innovator Business should demonstrate that they have conducted sufficient background research; and
 - 5.2.3. the Innovator Business should have a genuine need for support.

- 5.3. Following referral, the Receiving Authority's Innovation Function should offer support to the Innovator Business in accordance with paragraph 2.4 above.
- 5.4. The Referring Authority acknowledges that an Innovator Business benefiting from the Receiving Authority's Innovation Function's assistance during the pre-authorisation phase may or may not meet the requirements for authorisation, and that in providing assistance through the Innovation Function, the Receiving Authority is not expressing an opinion about whether an Innovator Business will ultimately meet the requirements for authorisation in its jurisdiction.

Information sharing

- 5.5. The Authorities undertake to share information about innovations in financial services in their respective markets, where appropriate. This may include, but is not limited to:
 - 5.5.1. emerging market trends and developments; and
 - 5.5.2. regulatory issues pertaining to innovation in financial services.
- 5.6. Subject to paragraph 6.2, the Authorities undertake to share further information on Innovator Businesses which have been referred to a Receiving Authority for support through its Innovation Function by a Referring Authority pursuant to paragraph 5.1.
- 5.7. The Authorities should notify each other of any material changes to:
 - 5.7.1. the support offered by a Receiving Authority's Innovation Function to an Innovator Business referred by a Referring Authority pursuant to paragraph 5.1; or
 - 5.7.2. the Authority's Criteria for Support.

6. Confidentiality & Permissible Uses

- 6.1. Any information disclosed by one Authority to the other Authority under paragraphs 5.5 to 5.7, and any information contained in a referral under paragraphs 5.1 to 5.4, should be treated by the other Authority as confidential information.
- 6.2. Information about an Innovator Business should be included in a referral under paragraphs 5.1 to 5.4 and sent to a Receiving Authority only if the Innovator Business consents to that disclosure.
- 6.3. 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 ensuring compliance with the law of the Receiving Authority's jurisdiction.
- 6.4. 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.
- 6.5. 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 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. Duration

- 7.1. This Co-operation Framework commences from the date of execution and will continue 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 Framework does not affect obligations under any existing EoL between the two Authorities.
- 7.3. In the event of the termination of this Co-operation Framework, information obtained under this Co-operation Framework will continue to be treated in the manner set out under paragraph 6.

8. Modification

- 8.1. The Authorities will review the operation of this Co-operation Framework and update its terms as required. The Authorities acknowledge that review may be required if there is a material change to the support offered by a Receiving Authority's Innovation Function to an Innovator Business referred by a Referring Authority pursuant to paragraph 5.1; or the Authority's Criteria for Support.
- 8.2. This Co-operation Framework may be modified by the mutual consent of both Authorities in writing.

I believe that enhanced co-operation in accordance with this letter will lead to a mutually beneficial relationship between ASIC and the FSA.

With my best regards.

Yours sincerely,

The Australian Securities and Investments Commission

By



John Price

Commissioner

Dated:

20/6/2017