

Cooperation Agreement
between
the Swiss Financial Market Supervisory Authority (“FINMA”)
and
the Australian Securities & Investments Commission (“ASIC”)
regarding
cooperation for innovation in the financial sector

1 Definitions

1.1 For the purpose of this Cooperation Agreement:

“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.

“Authority” means ASIC or FINMA; and collectively, shall be referred to as “the Authorities”.

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

“Financial Services Innovator” means any entity which provides or intends to provide innovative financial services in either of the Authorities’ jurisdictions and 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.

“Laws and Regulations” means any laws, regulation or regulatory requirement applicable in the jurisdiction of an Authority.



"Receiving Authority" means the Authority that is receiving a Financial Services Innovator business referral or information relating to that referral.

"Referring Authority" means the Authority that is referring a Financial Services Innovator to the Receiving Authority; and

2 Purpose

- 2.1 The Authorities intend to cooperate with the aim of encouraging and enabling innovation in financial services in their respective jurisdictions and of supporting Financial Services Innovators in meeting the Laws and Regulations applicable in their jurisdictions. To this end, each Authority has established an Innovation Function.
- 2.2 The Authorities believe that by cooperating with each other, innovation in financial services and investor protection will be enhanced in their respective markets.
- 2.3 Enhanced cooperation between the Authorities will facilitate the entry by Financial Services Innovators into, and their provision of, innovative financial services in their respective jurisdictions.

3 Fintech functions provided by the Authorities

- 3.1 FINMA encourages innovation and competitiveness in the Swiss financial market. FINMA is consistently removing unnecessary regulatory hurdles that may hinder Financial Services Innovators' market entry. It is also enabling Financial Services Innovators to have swift access to the Swiss financial market by providing specific support which includes:
 - 3.1.1 A Fintech Desk as a single point of contact for Financial Services Innovators;
 - 3.1.2 Specific assistance for Financial Services Innovators in understanding the Swiss regulatory framework and in establishing whether their business model requires Authorisation;
 - 3.1.3 A dedicated contact person for Financial Services Innovators during the pre-Authorisation or Authorisation process or both;



- 3.1.4 Support to all Financial Services Innovators irrespective of whether they are domiciled in Switzerland or abroad.
- 3.2 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. The Innovation Hub supports Financial Services Innovators through:
 - 3.2.1 A dedicated team and/or a dedicated contact for each business;
 - 3.2.2 Help for Financial Services Innovators to understand the regulatory framework, and how it applies to them;
 - 3.2.3 Assistance during the pre-Authorisation application phase to:
 - 3.2.3.1 Discuss the Authorisation application process and any regulatory issues that a Financial Services Innovator has identified; and
 - 3.2.3.2 Ensure the Financial Services Innovator understands the relevant Authority's regulatory regime and what it means for them.
 - 3.2.4 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 Financial Services Innovators.

4 Principles for cooperation

- 4.1 The Authorities agree to cooperate for the purpose and within the scope of this Cooperation Agreement.
- 4.2 This Cooperation Agreement is a statement of intent of the Authorities and accordingly does not create any enforceable rights or any binding legal obligations, and does not fetter the discretion of the Authorities in any way in the discharge of their respective functions. This Cooperation



Agreement is subject to the domestic laws and Regulations of each Authority and does not modify or supersede any Laws or Regulations in force and/or applicable in Switzerland or in Australia.

- 4.3 This Cooperation Agreement is intended to complement, but not affect or alter the terms and conditions of any other multilateral or bilateral arrangements concluded between the Authorities or between the Authorities and third parties.

5 Scope of cooperation

Information sharing

5.1 The Authorities intend, as appropriate, to exchange information about:

5.1.1 Regulatory and policy issues on innovation in financial services;

5.1.2 Emerging market trends and developments pertaining to innovation in financial services; and

5.1.3 Any other issues relevant to Fintech.

Referral mechanism

5.2 The Authorities will refer to each other Financial Services Innovators that would like to operate in the other Authority's jurisdiction. Each Authority will provide Financial Services Innovators originating from the other jurisdiction with the same level of support that it provides to Financial Services Innovators originating from its own jurisdiction. The support to referred Financial Services Innovators offered by the Authorities is set out in paragraphs 3.1 und 3.2.

5.3 The Referring Authority acknowledges that a Financial Services Innovator 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 Financial Services Innovator will ultimately meet the requirements for Authorisation in its jurisdiction.

Dialogue on Fintech and Innovative Financial Services



- 5.4 Representatives of the Authorities intend to meet or hold conference calls, where necessary, to discuss issues of common interest and share their experience in Fintech and innovative financial services.
- 5.5 Representatives of Financial Services Innovators may be invited to such meetings or conference calls provided both Authorities participating in the relevant discussion agree to the invitation being extended to those representatives.

Expertise sharing and secondment

- 5.6 Each Authority may allow its staff as appropriate, to give presentations and conduct training sessions for the other Authority to share expertise and knowledge.
- 5.7 The 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 Permissible use of information and confidentiality

- 6.1 Each Authority confirms that all persons acting on its behalf dealing with, or having access to, Confidential Information are bound by the obligation of professional or official secrecy or statutory confidentiality requirements.
- 6.2 Each Authority agrees to use Confidential Information disclosed to it by the other Authority only for the purposes for which the Confidential Information was shared.
- 6.3 If an Authority intends to use or disclose any Confidential Information for purposes other than those for which such Confidential Information was provided the Authority should seek prior written consent from the Authority that provided the information.
- 6.4 If an Authority is required by law to disclose any Confidential Information without obtaining prior written consent from the other Authority, the Authority that is required to make the disclosure should make its best efforts to protect confidentiality, use all reasonable legal means to resist disclosure and inform the other Authority to the extent possible and without undue delay of the disclosure.



7 Contact points

- 7.1 To facilitate cooperation under this Cooperation Agreement, each Authority will designate a contact point as specified in Appendix A.

8 Entry into force, amendments and termination

- 8.1 This Cooperation Agreement will commence on the date of execution. If executed on different dates, the Cooperation Agreement will commence on the later of those dates.
- 8.2 This Cooperation Agreement may be amended in writing if both Authorities agree in writing to do so.
- 8.3 Either Authority may terminate the Cooperation Agreement by giving 30 days' advance written notice to the other Authority.
- 8.4 In the event of termination, Confidential Information obtained under this Cooperation Agreement should continue to be treated in accordance with Article 6.



For FINMA

Michael Loretan
Head of Asset Management Division

Signed in Madrid on 18 October 2017

Rupert Schaefer
Head of Strategic Services

Signed in Berne on 12 October 2017

For ASIC

Greg Medcraft, Chairman

Signed in Madrid on 18 October 2017



Appendix A – Contact points

For FINMA:

Fintech Desk
Swiss Financial Market Supervisory Authority FINMA
Laupenstrasse 27
3003 Bern
Switzerland

Email: fintech@finma.ch

Tel: +41 31 327 16 16

For ASIC:

International Co-operation Requests

International@asic.gov.au

Copy to: innovationhub@asic.gov.au