

**COOPERATION ARRANGEMENT  
CONCERNING THE RESOLUTION OF FINANCIAL INSTITUTIONS WITH  
CROSS-BORDER OPERATIONS IN CANADA AND THE EUROPEAN BANKING UNION**

In view of the growing globalisation of the world's financial markets and the increase in cross-border operations and activities of financial institutions, the Canada Deposit Insurance Corporation ("CDIC") and the Single Resolution Board ("SRB") have reached this Cooperation Arrangement ("CA") on the exchange of information and cooperation in connection with the Resolution planning and the implementation of such planning with respect to Firms with cross-border operations. The CDIC and SRB express, through this CA, their willingness to cooperate with each other in the interest of fulfilling their respective statutory objectives; enhancing communication and cooperation; assisting each other in the planning and the conduct of an orderly Resolution of a Firm; and maintaining confidence and financial stability in Canada and the European Banking Union.

**SECTION ONE: DEFINITIONS**

1. For the purpose of this CA the following definitions apply:

- A. "Authority" means the CDIC or the SRB;
  - (i) "Requested Authority" means the Authority to whom a request is made under this CA; and
  - (ii) "Requesting Authority" means the Authority making a request under this CA.
- B. "Authorities" means the CDIC and the SRB;
- C. "CDIC Act" means the Canada Deposit Insurance Corporation Act;
- D. "Confidential Information" means information which is not publicly available, that has been developed or received by an Authority and that is not in summary or collective form such that individual countries, entities or institutions cannot be identified;
- E. "Corporate Group" means an entity, together with any affiliates, or a collection of parent and subsidiary corporations that function as a single economic entity through a common source of control or that are controlled by the same Person;
- F. "Emergency Situation" means any circumstances in which the financial or operational condition of a Firm has been materially impaired, or can reasonably be expected to be materially impaired, in a manner likely to affect the cross-border operations of the Firm and requiring consultation or coordination by the Authorities;
- G. "European Banking Union" means, collectively, the Participating Member States;
- H. "Firm" means:

- (i) A Person designated as a globally systemically important financial institution by the Financial Stability Board; a Person subject to the jurisdiction of an Authority as an authorised credit institution that is a depository institution; a CDIC Member Institution, together with any affiliates thereof, which, in any case, is engaged in financial services activities in Canada and/or European Banking Union; and
  - (ii) A Person that is in the same Corporate Group as any Person identified in subparagraph (i) above.
- I. "Member Institution" under the CDIC Act means an entity that has deposit insurance under the CDIC Act;
  - J. "National Competent Authorities" means a National Competent Authority designated by a participating Member State in accordance with Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms (OJ L 176, 27.6.2013, p. 1.) and Directive 2013/36/EU, and specified in Annex C;
  - K. "National Resolution Authorities" means a National Resolution Authority as defined in accordance with Article 3(1)(3) of the Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the Resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism ("SRM") and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014, p. 1) ("SRM Regulation"), and specified in Annex B;
  - L. "Non-participating Member State" means a Member State of the European Union, whose currency is not the Euro and which has not established a close cooperation in accordance with Article 7 of the Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63) ("Single Supervision Mechanism Regulation" or "SSM");
  - M. "Other Governmental Entity" means any one of:
    - (i) the CDIC, the Bank of Canada, the Office of the Superintendent of Financial Institutions ("OSFI"), the Department of Finance Canada, the Financial Consumer Agency of Canada; or
    - (ii) the SRB, the European Central Bank, the European Banking Authority, the National Resolution Authorities (as set forth in Annex B) and National Competent Authorities (as set forth in Annex C) of Participating Member States.
  - N. "Participating Member State" means a Member State of the European Union, whose currency is the Euro or a Member State of the European Union, whose currency is not the Euro and which has established a close cooperation in accordance with the SSM;

- O. "Person" means a natural person, unincorporated association, partnership, trust, investment company, or corporation;
- P. "Resolution" means actions taken, or that may be taken, by an Authority to address an Emergency Situation, or plan for an Emergency Situation, involving a distressed Firm, consonant with its statutory mandate, being:
  - (i) in respect of the CDIC, for the performance of its tasks as a Resolution Authority, including the coordination with Other Governmental Entities for recovery and Resolution planning, preparedness, or other intervention, the implementation of Resolution strategies for Member Institutions, including use of bridge institutions for Member Institution failures, financial assistance in respect of the sale or merger of a troubled Member Institution, the transfer of part or all of a Member Institution's property to a private sector purchaser, a payment of deposit insurance, bail-in or any other comparable functions permitted under the CDIC Act, or other relevant statutes and laws; and
  - (ii) in respect of the SRB, through the application of its tasks of a single Resolution Authority as part of the SRM in accordance with the SRM Regulation.

## **SECTION TWO: GENERAL FRAMEWORK**

2. This CA is a statement of intent to consult, cooperate, and exchange information in connection with the implementation of the Resolution of Firms in Canada and in the European Banking Union in a manner consistent with and permitted by the laws and requirements that govern the Authorities. The Authorities will take steps to continue and enhance ongoing cooperation and communication through periodic and ad-hoc consultations between them, both during normal business-as-usual circumstances and during periods of financial stress. As the condition of a Firm deteriorates, it is expected that cooperation between the Authorities will intensify as well. Additional communications may take place under the terms of this CA or as otherwise agreed by the Authorities.
3. The SRB fulfils the tasks of a European Resolution Authority as part of the SRM in accordance with the SRM Regulation. The main aims of the SRM are to ensure effective and uniform Resolution rules and equal conditions of Resolution financing across Participating Member States under a centralised power of Resolution. The SRB is responsible for the collection of information and the cooperation with National Resolution Authorities for the elaboration of Resolution planning for entities under its scope, including the assessment of resolvability and the determination of the minimum requirement for own funds and eligible liabilities. In performing its tasks the SRB works with other relevant Authorities, which in some instances are the primary sources of certain relevant information and with which requests for such information must be coordinated. It is responsible for the adoption and monitoring of execution of Resolution schemes for all entities falling under its direct scope of responsibilities as set by the SRM Regulation. In accordance with Article 18(7) of the SRM Regulation, the European Commission and the Council of the European Union are responsible for approving or objecting to the Resolution scheme adopted by the SRB with regard to the scheme's discretionary aspects. Moreover, pursuant to Article 7(3) and 31(1) of the SRM Regulation, the SRB shall receive from National Resolution Authorities any draft

decisions on which it may express its views. In case of non-compliance and where necessary to ensure the consistent application of high Resolution standards the SRB may issue warnings to the relevant National Resolution Authority. Furthermore, at any time, the SRB may decide to exercise direct powers under Article 7(4) of the SRM Regulation. The SRB shall also represent National Resolution Authorities of the Participating Member States for the purpose of consultation and cooperation with Non-Participating Member States or third countries pursuant to Article 32(1) of the SRM Regulation and conclude cooperation arrangements on behalf of National Resolution Authorities of Participating Member States pursuant to Article 32(4) of the SRM Regulation. This does not affect the CDIC's ability to communicate, share information and establish relations with National Resolution Authorities.

4. The CDIC is a federal Crown corporation and the deposit insurance authority that insures eligible deposits at Member Institutions in Canada. Under s.7 of the CDIC Act, the CDIC is also the Resolution Authority for Member Institutions. In case of the failure of a Member Institution, the CDIC has the power to resolve the institution by, among other things, arranging for insured deposit transfers, initiating or assisting purchase and assumption transactions, creating a bridge institution and conducting a bail-in. The CDIC is not the prudential regulator of Member Institutions in Canada and, as such, is not responsible for recovery planning and supervisory oversight of their business operations. The remaining provisions of this CA shall be interpreted having regard to the role of the CDIC as described in this paragraph.
5. This CA expresses the Authorities' intent to enhance and strengthen their consultation and cooperation in understanding the complexities inherent in the cross-border operations of Firms, in conducting cooperative analyses of the challenges in the Resolution of such Firms, and in contingency planning for such challenges and Resolutions.
6. This CA does not create any legally binding obligations, confer any rights, modify, supersede any domestic laws or restrict the Authorities in the exercise of their statutory powers and functions. This CA does not confer any rights upon any Person, including any right or ability directly or indirectly to obtain, suppress, or exclude any information or to challenge the execution of a request for assistance under this CA.
7. The Authorities acknowledge that any particular assistance, information or cooperation may be provided pursuant to the CA only if permitted under their respective laws, regulations or requirements.
8. This CA does not affect any arrangements under other agreements or memoranda of understanding, nor does this CA limit the terms of future arrangements.
9. This CA does not limit an Authority to taking solely those measures described herein in fulfilment of its Resolution or other functions. In particular, this CA does not affect any right of an Authority to communicate with, conduct an on-site visitation of, or obtain information or documents from, any Person subject to its jurisdiction that is located in the territory of the other Authority.
10. The Authorities intend that the cooperation and information sharing arrangements under this CA should be implemented in a manner that is compatible with the

obligations and commitments that an Authority may have to an asset management, banking or other regulatory Authority or agency pursuant to memoranda of understanding or other agreements.

11. The Authorities intend periodically to review the functioning and effectiveness of cooperation arrangements between them with a view, *inter alia*, to expanding or altering the scope or operation of this CA should that be judged necessary. Such periodic review will seek to ensure that this CA accommodates and responds to changing circumstances and benefits from lessons learned. It will also be updated if there are material developments – for example, changes to either of the Authorities’ responsibilities – that are likely to impact the way the CDIC and SRB work together.

### **SECTION THREE: COMMON PRINCIPLES REGARDING RESOLUTIONS OF FIRMS WITH CROSS-BORDER OPERATIONS**

12. Managing a crisis involving the cross-border activities of a Firm is a matter of common interest for Canada and the European Banking Union. The successful management and Resolution of a crisis involving a Firm with significant cross-border activities in Canada and the European Banking Union requires careful *ex ante* preparation to establish optimal processes and steps to ensure effective coordination and implementation of possible monitoring of Firms, crisis management, recovery and Resolution strategies.
13. Arrangements and tools for cross-border Resolution should be flexible and designed to allow for adaptation to the specific features of a crisis and the individual institutions involved. Cross-border arrangements will build on effective Resolution regime arrangements and cooperation between the Authorities, and the Authorities should undertake steps to improve their ability promptly to assess the broader effects of any financial crisis and its cross-border implications based on common terminology and analyses.
14. Arrangements for crisis Resolution should reflect the division of responsibilities between the Authorities and other responsible regulators and supervisors, and the coordinating role of home country regulators and supervisors. The Authorities should implement Resolution options that are consistent with their respective Resolution objectives, in particular aimed at pursuing financial stability and protecting insured depositors.
15. In line with the Financial Stability Board’s Key Attributes for Effective Resolution Regimes for Financial Institutions, as adopted by the G20 at the Cannes Summit in November 2011 and as amended in October 2014, the Authorities recognise the importance of cross-border crisis management groups (“CMGs”) and intend to work together to ensure that the CMGs in which they jointly participate effectively strengthen institution-specific cross-border Resolution preparation and arrangements.

### **SECTION FOUR: MECHANISM AND SCOPE OF RESOLUTION CONSULTATION, COOPERATION, AND EXCHANGE OF INFORMATION**

16. The Authorities recognise the importance of close and effective communication concerning the global operations of Firms, and intend to consult regularly regarding general Resolution developments, including the sharing of all relevant information,

- including, to the extent permitted by applicable law and not contrary to public policy, recovery and Resolution plans pertaining to the group as a whole or to individual subsidiaries where plans of subsidiaries exist, and issues relevant to the operations, activities, and regulation of such Firms. Furthermore, the Authorities will seek to enhance cooperation in the analysis of Firms' Resolution issues, planning for potential Resolution scenarios, and appropriate simulations, contingency planning or other work designed to improve preparations of the Authorities for managing and resolving crises involving Firms.
17. The Authorities will also work with Other Governmental Entities within their jurisdictions and with Firms themselves in developing Resolution plans and strategies for Firms and in ensuring that such plans and strategies remain current.
  18. To the extent possible, in respect of any confidentiality and other restrictions, the Authorities intend to:
    - (i) discuss approaches to Resolution planning;
    - (ii) share ideas and strategies; and
    - (iii) facilitate mutual understanding of Resolution plan rulemaking, rules, practice and implementation in each other's jurisdiction.
  19. To the extent practicable and as appropriate in the particular circumstances, including the status of efforts to address any difficulties experienced by a Firm, each Authority will endeavour to inform the other Authority:
    - (i) in advance of regulatory changes relating to Resolution regimes and which may have a significant, material impact on the operations or activities of a Firm in the other jurisdiction; and
    - (ii) of regulatory and technical developments applicable to the recognition and enforcement of foreign Resolution proceedings under their respective jurisdictions.

This will, however, be without prejudice to any arrangements relating to specific prudential issues.
  20. Each Authority will make available staff as appropriate to give presentations to, and run training sessions for, the other Authority, to share expertise and knowledge.
  21. Each Authority will designate a contact person or persons of sufficient seniority *ex ante*, to be involved in ongoing Resolution and crisis management of Firms. These contact people will be listed in Annex A to this CA. Each Authority will inform the other Authority of these appointments and any changes thereto. Senior-level contacts will be supported by regular working-level contact and collaboration, potentially including joint work on issues of common interest.
  22. To the extent necessary to supplement periodic consultations, and so far as consistent with any Firm-specific cooperation agreements agreed by both parties through any Firm's CMG and with ensuring compliance with the laws or regulations of Canada or the European Union (including the European Banking Union), the

Authorities intend to cooperate with each other in assisting with Resolution planning (including implementation of such planning). The assistance covered by this paragraph may include, as appropriate to each Firm and in accordance with the rights of each Authority to collect or otherwise obtain information, providing:

- (i) information relevant to the financial and operational conditions of a Firm;
- (ii) assistance in interpreting requested information, if such assistance is needed; and
- (iii) assistance in obtaining other information located in the Requested Authority's jurisdiction that may be relevant to the Requesting Authority's planning and implementation of Resolution.

In addition, the Authorities will discuss and agree on the information each should provide to the other for the purpose of planning and implementing Resolutions (which may include monitoring of Firms, crisis management activities and review of recovery and Resolution plans).

23. The Authorities recognise that communication and coordination can play an important role in promoting efficiency and preserving value in the Resolution of a Firm. The Authorities further acknowledge that their legal duties and objectives will often align with the goals of maximising recoveries, minimising losses and minimising moral hazard. Where this is the case, they will endeavour, subject to applicable laws and regulations, to cooperate and coordinate in order to identify and implement Resolution processes and joint communication strategies that meet these goals in both of their respective jurisdictions. For these purposes, both Authorities will provide a list of relevant units and responsible persons with their contact information in Annex A to this CA.

24. The Authorities recognise that there may from time to time be technical matters related to specific Resolution plans and Resolution cases upon which it might be necessary to take a broadly common view or position. Through regular dialogue, the Authorities will seek to identify such matters. To the extent that the respective objectives of the Authorities can be best advanced through a joint articulation of such view or position and/or through joint engagement with third parties, the Authorities will seek to do so.

25. English will be the working language in all written and spoken communication.

## **SECTION FIVE: EXECUTION OF REQUESTS FOR ASSISTANCE**

26. To the extent possible, a request for information pursuant to Section Four should be made in writing, and addressed to the relevant contact person(s) (see Annex A). A request should generally specify the following:

- (i) the information sought by the Requesting Authority;
- (ii) a general description of the matter which is the subject of the request and the purpose for which the information is sought; and
- (iii) the desired time period for reply and, where appropriate, the urgency thereof.

27. In Emergency Situations, the Authorities will endeavour to notify each other of the Emergency Situation and communicate information to each other as would be appropriate in the particular circumstances, taking into account all relevant factors, including the status of efforts to address the Emergency Situation. During Emergency Situations, requests for information may be made in any form, including orally, provided such communication is confirmed subsequently in writing. The Authorities will endeavour to provide information as quickly as possible during Emergency Situations.

## **SECTION SIX: PERMISSIBLE USES AND CONFIDENTIALITY OF INFORMATION**

28. It is understood that information may be shared pursuant to this CA to the extent such sharing is reasonable and subject to any relevant statutory and regulatory provisions, including those restricting disclosure. In addition, the provision of, or request for, information under this CA may be denied on grounds of public interest or national security, or when disclosure would interfere with an ongoing investigation.

29. Any Confidential Information received from a Requested Authority will be used only for the planning and implementation of Resolutions (which may include monitoring of Firms, crisis management activities and review of Resolution plans). To the extent permitted by law, a Requesting Authority will hold confidential all information (other than publicly available information) received from a Requested Authority pursuant to this CA and will not disclose such information other than as necessary to carry out its Firm monitoring, crisis management, Resolution planning or implementation responsibilities and consistent with paragraphs 30, 31, 32 and 33.

30. Except as provided in paragraph 31, 32 and 33, before a Requesting Authority discloses any Confidential Information received from a Requested Authority to a third party, the Requesting Authority will request and obtain prior written consent from the Requested Authority, which will not be unreasonably withheld.

31. Subject to paragraphs 32 and 33, in the event that a Requesting Authority is required by statute or legal process<sup>1</sup> to disclose Confidential Information provided pursuant to this CA, it will, to the extent permitted by law,<sup>2</sup> inform the Requested Authority about such possible onward sharing. If the Requested Authority does not consent to such disclosure, then, the Requesting Authority will take all available and appropriate steps to resist disclosure, including by employing legal means to challenge the order or by advising the third party requiring such information of the possible negative consequences that such disclosure might have on the future exchange of Confidential Information between the Authorities.<sup>3</sup>

32. CDIC represents that it may be required to share Confidential Information with any Other Governmental Entity pursuant to Articles 18(3) and (4) of the *Office of the Superintendent of Financial Institutions Act*. CDIC represents that it will only share Confidential Information that was provided by the SRB to CDIC for Resolution

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<sup>1</sup> In the case of the SRB, this may mean sharing with the European Commission, the Council of the European Union, and the European Central Bank.

<sup>2</sup> For example, a subpoena or court order requesting information may bar the CDIC from disclosing the existence of such subpoena or order.

<sup>3</sup> Such steps also would be taken as appropriate in the context of the instances referred to in footnote 2.



purposes and in CDIC's capacity as Resolution Authority. CDIC further represents that it will only share such information where:

- (i) it has received a written request from an Other Governmental Entity and CDIC is legally obligated to share the information with the Other Governmental Entity; and
- (ii) it has obtained assurances from the Other Governmental Entity receiving the Confidential Information, that the Confidential Information will not be further disclosed by the Other Governmental Entity, except to another Other Governmental Entity, unless authorized by CDIC after CDIC obtains the SRB's written consent.

CDIC represents that obtaining consent of, or providing notice to, the SRB prior to such disclosure to Other Governmental Entities would prove burdensome. The SRB confirms that notice and its prior consent are not required in these circumstances. However, CDIC will inform the SRB on a regular basis of such requests and of any information shared with any Other Governmental Entity as a result thereof.

33. The SRB represents that it is required by Articles 53(1) and (2) of the SRM Regulation to share Confidential Information on an ongoing basis (for example, to individual members of Internal Resolution Team) with any Other Governmental Entity. The SRB represents that it will only share Confidential Information that was provided by the CDIC to the SRB for Resolution purposes. The SRB represents that it will only share such information on a need-to-know basis where it has obtained assurances from the Other Governmental Entity receiving the Confidential Information, that the Confidential Information will not be further disclosed by the Other Governmental Entity, except to another Other Governmental Entity, unless authorized by the SRB after the SRB obtains the CDIC's written consent.

The SRB represents that obtaining consent of, or providing notice to, CDIC prior to such disclosure to Other Governmental Entities would prove burdensome. The CDIC confirms that notice and its prior consent are not required in these circumstances. However, the SRB will inform the CDIC on a regular basis of such requests and of any information shared with any of the Other Governmental Entity as a result thereof.

34. No privileges or confidentiality associated with information provided by an Authority are intended to be waived as a result of sharing such information pursuant to this CA.

## **SECTION SEVEN: REVIEW AND AMENDMENT**

35. Authorities may review the functioning and effectiveness of cooperation and information exchange under this CA, either every two years, or after an earlier interval when deemed necessary by both Authorities.
36. Any amendment to this CA requires mutual consent of the Authorities and will be confirmed in writing unless otherwise agreed upon.

## **SECTION EIGHT: TERMINATION**

37. Cooperation in accordance with this CA will commence as of the date written below and continue indefinitely subject to modification by the mutual consent of the Authorities or termination by an Authority with 30 days advance written notice to the other Authority. After termination, the confidentiality provisions in Section Six will continue to apply to any information provided under this CA prior to termination.

Signed at \_\_\_\_\_,  
this \_\_\_\_ day of December, 2017

Signed at \_\_\_\_\_,  
this \_\_\_\_ day of December, 2017

\_\_\_\_\_  
Michèle Bourque  
President and Chief Executive Officer  
Canada Deposit Insurance Corporation

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Elke König  
Chair  
Single Resolution Board