

**MEMORANDUM OF UNDERSTANDING**  
**concerning cooperation in conducting banking supervision**

concluded between:

The Commission for Banking Supervision of the Republic of Poland, represented by the President of the National Bank of Poland, acting as the Chairperson of the Commission for Banking Supervision (hereinafter referred to as the CBS), and Banco de Portugal, represented by Governor.

Having regard to the fact that, on the basis of the existing legal regulations, the CBS and the Banco de Portugal (hereinafter referred to as the Authorities) pursue the supervision of banks operating in the territory comprising their jurisdiction, the Authorities

- recognise the need for a mutual exchange of information,  
and
- express their readiness to create conditions for improving, to the extent defined herein and on a mutual basis, the supervision of banks which have cross-border establishments in the territories of the two countries, the Authorities set forth the following.

**I General Provisions**

**Article 1**

For the purposes of this memorandum,

- (1) 'bank' is a credit institution according to Article 1 (p 1. a) of the Directive 2000/12/EC,
- (2) 'subsidiary bank' is a bank which meets the criteria for the subsidiary stipulated in Article 1 (p 13) of the Directive 2000/12/EC,
- (3) 'branch' is a legally dependent unit of a bank pursuant to Article 1 (p 3) of the Directive 2000/12/EC which has its seat in the territory of one of the Authorities and is established in the territory of the other Authority,
- (4) 'cross-border establishment' is a subsidiary bank, operating in the territory of one of the Authorities, which is owned by a bank or by a financial holding company which has its seat in the territory of the other Authority or a branch,
- (5) 'home country' is the country in which the bank's seat or the financial holding company's seat is located,
- (6) 'host country' is the country in which a cross-border establishment is located.



## II Exchange of Information

### Article 2

1. The Authorities declare their willingness to exchange information concerning the activities of cross-border establishments and of banks and financial holding companies which own such establishments, in the following areas (as applicable):

- (a) process of authorisations for establishing banking business and acquisition of shares in a bank,
- (b) supervision of their current activities,
- (c) situations raising banking supervisory concerns.

2. Information referred to in paragraph 1 may be transmitted provided that effective steps are taken to ensure that the information obtained will be used exclusively for the purposes of banking supervision, subject to paragraph 3.

3. The Authorities acknowledge that compliance with the obligation of professional secrecy and confidentiality by all employees currently or previously employed who receive confidential information from the other Authority in the course of their activities is a necessary condition for successful cooperation between the Authorities. The Authorities agree that any confidential information shared by virtue of these arrangements shall be used only for lawful supervisory purposes. The Authorities will, to the extent permitted by law, maintain the confidentiality of all information received from each other by virtue of these arrangements and shall not disclose any such information other than as necessary to carry out their supervisory responsibilities without first obtaining the prior written consent of the other Authority and then only in accordance with the conditions (if any) attached by the Authority providing information. Each Authority shall, if it receives any legally enforceable demand for information received from the other Authority or acquired in the course of an on-site examination in the other Authority's jurisdiction pursuant to which it is obliged by law to disclose such information (notwithstanding any other provision of this Memorandum of Understanding), promptly notify the other Authority and will cooperate in seeking to preserve, as far as is legally possible, the confidentiality of such information.

4. On the basis of paragraph 1 and in accordance with the conditions specified under paragraphs 2 and 3, the following information in particular may be exchanged

(a) in the process of licensing and issuing authorisations:

- information on a bank which intends to open a subsidiary concerning:
  - the extent and size of its operations,
  - compliance with legal regulations, including prudential regulations,

- organisational structure and internal control system for ensuring the proper activity of subsidiary,
- financial condition.

- information on governing bodies and shareholders which own at least 10% of the shares in the bank intending to open a subsidiary,

- information on candidates for the governing bodies of a subsidiary bank, with a special consideration of whether these persons have not been deprived by a court of law of the right to pursue their own business or to act as a representative or a proxy of an entrepreneur, a member of supervisory board or board of audit of a joint stock company, limited liability company or a cooperative,

(b) in the supervision of current activities:

- information concerning the condition and development of the respective banking sectors, prudential regulations and other requirements of banking supervision as well as information on significant changes thereof,

- a summary evaluation of the financial situation of subsidiary and banks which own it,

- information on recommendations issued on the basis of the performed on-site examination.

(c) in situations raising banking supervision concerns:

- information on subsidiary banks or banks which own these subsidiary banks, which are suffering a net loss or threatened with insolvency,

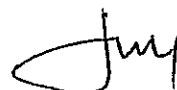
- information on a branch in which a situation has occurred that may lead to the insolvency of the bank.

5. The Authorities shall provide each other with information referred to above under (c) immediately after the circumstances referred to in that paragraph occur.

6. The materials provided pursuant to this Memorandum of Understanding and containing information covered by professional secrecy shall be marked solely with the words 'Covered by professional secrecy'.

### Article 3

The Authorities shall exchange information and perform supervision of branches according to the appropriate provisions of Articles 17-19, 20.1-6, 21, 22, 26-29 of the Directive 2000/12/EC.

### **III Granting authorisations for opening a subsidiary**

#### **Article 4**

1. In the granting of authorisations for opening a subsidiary bank, the Authorities agree to the following:

- (a) The host Authority shall immediately inform the home Authority on receiving an application for granting the authorisation,
- (b) the home Authority shall inform the host Authority as to whether a bank which has submitted the aforementioned application has to obtain the approval of the banking supervision agency of the home country for the opening of a subsidiary,
- (c) upon request by the host Authority, the home Authority shall transmit information facilitating the consideration of the aforementioned application, in particular, information referred to in Article 2 paragraph 4(a).

2. The procedure described in the above paragraph shall be applied accordingly in the granting an authorisation for acquiring shares in a bank by a bank which has its seat under the jurisdiction of the other Authority.

#### **Article 5**

If, at a subsidiary bank operating on the territory of the host country, there have been changes regarding:


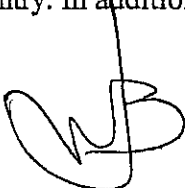
- activity for which a subsidiary bank is to be authorised,
- seat of a subsidiary bank,
- position of a president of the management board of a subsidiary bank,

the host Authority shall immediately inform the home Authority of these changes.

### **IV Ongoing supervision, on-site examinations and audits**

#### **Article 6**

Subsidiary banks are supervised by the host Authority in accordance with the law of the host country. In addition, they are subject to the consolidated supervision of the home Authority.

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## Article 7

1. The Authorities agree that cooperation is particularly useful in assisting each other in carrying out on-site examination of subsidiary banks. At the discretion of the host Authority and in accordance with the applicable laws in each jurisdiction, on-site examinations may be carried out by the home Authority independently or jointly with the host Authority.
2. The home Authority will use its best efforts to ensure that requests for the on-site examination or/and participation in the examination is conveyed to the host Authority at least two months before the envisaged date of the visit, specifically regarding the purpose of the examination or the participation in the examination, its expected duration, the institutions to be examined and data of the persons who shall take part in the examination;
3. The home Authority would inform the host Authority at the conclusion of an examination and provide, to the extent reasonable, information on the results of the review relevant to the operations of the cross-border establishment.

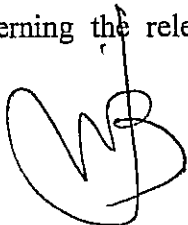
## Article 8

With regard to the supervision of systemically relevant cross-border establishments, the host Authority informs the home Authority of its specific interest and supervisory concerns. The home Authority will discuss these concerns with the host Authority for the purpose of finding the best solution. The Authorities may agree on either ordinary or special measures to solve the supervisory problem, not excluding additional on-site verification of the information. On a case-by-case basis and after due consideration, the home Authority may request the host Authority to accompany the home Authority or their commissioned examiners during a targeted on-site examination of the relevant parent institution if and to the extent this examination covers a specific area directly related to the supervision of the cross-border establishments in the host country.

## Article 9

### Financial crime

The Authorities will cooperate closely when they identify financial crime activities in supervised institutions. For the purposes of this agreement, 'financial crimes' are, in particular, money laundering and all violations of law on financial markets. This includes unauthorised banking business. The Authorities shall share information on financial crime concerning the relevant institutions which carry out cross-border activities in the other



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jurisdiction, or which might affect the other jurisdiction to the extent allowed under their laws. Article 2 paragraph 3 of this memorandum shall be observed.

### **Article 10**

#### **Crisis situation**

The Authorities shall inform each other immediately if they learn of an incipient crisis such as serious financial difficulties which might have a material adverse impact on operations relating to any institution, supervised by either Authority, which has cross-border establishments or to the cross-border establishments.

## **V Final Provisions**

### **Article 11**

- 1 This memorandum shall become void:
  - pursuant to a decision, taken jointly by the Authorities, that the memorandum does not meet objectives for which it was concluded,
  - if one of the Authorities notifies the other Authority of the termination of the memorandum six months prior to the date of termination.
2. Notwithstanding the dissolution of the memorandum, those activities undertaken in the binding period of the memorandum shall be continued until their completion.

### **Article 12**

Six copies of the memorandum have been prepared - two in English, two in Portuguese, two in Polish. Each Party has received three copies. In case of any doubt with regard to the interpretation of this Memorandum, the English version shall prevail.

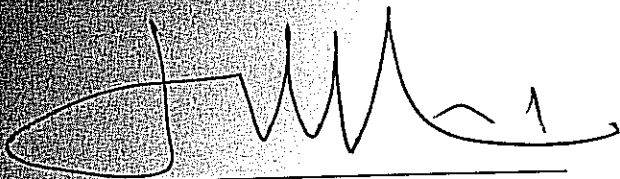


Article 13

The memorandum shall become effective on the day on which it is signed by the Parties.

CONFIRMED this date, 07.07.2006

Banco de Portugal



Vítor Constâncio, Governador

CONFIRMED this date, 26-06-2006

Commission for Banking Supervision



Leszek Balcerowicz

President of the National Bank of Poland

Acting as the Chairperson of the

Commission for Banking Supervision

