

**MEMORANDUM OF COOPERATION
CONCERNING COOPERATION AND THE EXCHANGE OF INFORMATION
RELATED TO THE SUPERVISION OF CROSS-BORDER CLEARING AGENCIES
OPERATING AS CENTRAL COUNTERPARTIES IN ONTARIO AND JAPAN**

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of regulated entities, the Financial Services Agency of Japan and the Ontario Securities Commission (collectively, the "**Authorities**") have reached this Memorandum of Cooperation ("**MOC**") regarding cooperation and the exchange of information in the supervision and oversight of clearing agencies that operate on a cross-border basis in both Japan and Ontario, Canada. This MOC does not preclude information sharing or cooperation with respect to persons that are not specifically defined as covered by this MOC but that nonetheless may be subject to regulatory requirements in Japan or Ontario, Canada. The Authorities express, through this MOC, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates with respect to clearing agencies operating as central counterparties.

ITEM ONE: DEFINITIONS

For purposes of this MOC:

1. "**Authority**" means:
 - a. In Japan, the Financial Services Agency ("**JFSA**");
 - b. In Canada, the Ontario Securities Commission ("**OSC**"), or any other Canadian securities regulatory authority or Canadian derivatives authority that has become a signatory to the MOC in the manner set out in ITEM EIGHT (individually, a "**Canadian Authority**", or collectively, the "**Canadian Authorities**").
2. "**Requesting Authority**" means an Authority making a request under this MOC.
3. "**Requested Authority**" means:
 - a. Where the Requesting Authority is the JFSA, the Canadian Authority to which a request is made under this MOC; or
 - b. Where the Requesting Authority is a Canadian Authority, the JFSA.
4. "**Laws and Regulations**" means:
 - a. For the OSC, the *Securities Commission Act, 2021* (Ontario) and related rules and regulations ("**SCA**") and successor legislation; the *Securities Act* (Ontario) and related rules and regulations ("**OSA**") and successor legislation; the *Commodity Futures Act* (Ontario) and related rules and regulations ("**CFA**") and successor legislation; and other relevant requirements in Canada and Ontario;
 - b. For the JFSA, any laws, regulations, regulatory requirements, and supervisory-guidelines relating and applicable respectively to JFSA in Japan;
5. "**Person**" means a natural person, unincorporated association, partnership, trust, investment company, or corporation, and may be a Central Counterparty.
6. "**Central Counterparty**" ("**CCP**") means a Person in either Ontario, Canada, or in any other Canadian jurisdiction or Japan that satisfies both of the following criteria:
 - a. A clearing agency operating as a central counterparty that is, or that has applied to be, recognized or exempted from the requirement to be recognized as a clearing agency under the Laws and Regulations in Ontario, Canada, or in the jurisdiction of any other Canadian Authority; and
 - b. a central counterparty which has been licensed or approved as "Financial Instruments Clearing Organization" under the Financial Instruments and Exchange Act of Japan (Act No. 25 of 1948) and authorised by JFSA.
7. "**Clearing Member**" means a member of a CCP that also serves as an intermediary through which market participants access the CCP's services and/or a member of a CCP that does not serve as an intermediary but trades and clears transactions through the CCP solely for its own account, as principal.
8. "**Books and Records**" means documents, electronic media, books and records within the possession, custody, and control of, and other information about, a CCP or the CCP's clearing services.

9. **“Emergency Situation”** means the occurrence of an event that could materially impair the financial or operational condition of a CCP.
10. **“On-Site Visit”** means any regulatory visit as described in ITEM Five to the premises of a CCP.
11. **“Local Authority”** means the Authority in whose jurisdiction a CCP that is the subject of an On-Site Visit is physically located.
12. **“Visiting Authority”** means the Authority conducting an On-Site Visit.
13. **“Governmental Entity”** means:
 - a. If the Requesting Authority is the OSC:
 - (i) the Ministry of Finance – Ontario;
 - (ii) the Federal Ministry of Finance – Canada;
 - (iii) the Bank of Canada; and
 - (iv) any provincial or territorial securities or derivatives regulatory authority in Canada which, from time to time, is or becomes a signatory to the Memorandum of Understanding Respecting the Oversight of Clearing Agencies, Trade Repositories and Matching Service Utilities, dated December 3, 2015¹ as revised and supplemented from time to time.
 - b. If the Requesting Authority is the JFSA:
 - (i) the Ministry of Finance; and
 - (ii) the Bank of Japan.
 - c. Such other entity, as confirmed in writing by the signatories, as may be responsible for any other Canadian Authority which may become a signatory to this MOC in the manner set out in ITEM EIGHT; and
14. **“PFMIs”** means the Principles for Financial Market Infrastructures published by the Committee on Payment and Settlement Systems (“**CPSS**”) and the Technical Committee of the International Organization of Securities Commissions (“**IOSCO**”), as revised from time to time.

ITEM TWO: GENERAL CONTENTS

15. This MOC is a statement of intent to consult, cooperate, and exchange information in connection with the supervision and oversight of CCPs. The cooperation and information sharing arrangements under this MOC should be interpreted and implemented in a manner that is permitted by, and consistent with, the legal requirements applicable to each Authority. With respect to cooperation under this MOC, at the date this arrangement is executed, each Authority believes that no domestic secrecy or blocking laws or regulations should prevent it from providing assistance to any other Authority. The Authorities may deny a request for assistance where the request would require an Authority to act in a manner that would violate applicable legislation. The Authorities anticipate that cooperation primarily will be achieved through ongoing informal consultations, supplemented as needed by more formal cooperation, including through mutual assistance in obtaining information related to CCPs. This MOC is intended to support both informal consultations and formal cooperation, as well as to facilitate the written exchange of non-public information in accordance with applicable Laws and Regulations.
16. This MOC does not create any legally binding obligations, confer any rights, or modify or supersede domestic laws, or regulations. This MOC does not confer upon any Person the 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 MOC.
17. This MOC is not intended to limit or condition the discretion of an Authority in any way in the discharge of its regulatory responsibilities or to prejudice the individual responsibilities or autonomy of any Authority. This MOC does not limit an Authority to taking solely those measures described herein in fulfillment of its supervisory functions. In particular, this MOC does not affect any right of any Authority to communicate with, conduct an On-

¹ <https://www.osc.ca/en/about-us/domestic-and-international-engagement/domestic-mous/notice-memorandum-understanding-5>

Site Visit of (subject to the procedures described in ITEM FIVE), or obtain information or documents from any Person subject to its jurisdiction that is physically located in the jurisdiction of another Authority.

18. This MOC is intended to complement but does not alter, except where explicitly noted, the following existing arrangements:
 - a. The *IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information* (revised May 2012) ("**IOSCO MMOU**")², to which the Authorities are signatories, which covers primarily information sharing in the context of enforcement matters; and
 - b. any other existing arrangements concerning cooperation between the Authorities.
19. To facilitate cooperation under this MOC, the Authorities hereby designate contact persons as set forth in Appendix A, which may be revised from time to time by an Authority transmitting new contact information to the other Authorities.
20. This MOC is a non-binding bilateral arrangement between each Canadian Authority and the JFSA and should not be considered a bilateral agreement between any Canadian Authority.

ITEM THREE: SCOPE OF SUPERVISORY CONSULTATION, COOPERATION, AND EXCHANGE OF INFORMATION

General

21. The Authorities recognize the importance of close communication concerning their supervision of CCPs and intend to consult regularly, as appropriate, regarding:
 - a. General supervisory issues, including regulatory, oversight, or other related developments;
 - b. Issues relevant to the operations, activities, and regulation of CCPs; and
 - c. Any other areas of mutual supervisory interest.
22. The Authorities recognize, in particular, the importance of close cooperation in the event that a CCP experiences, or is threatened by, a potential financial crisis or other Emergency Situation. An Authority should provide notification to the other Authorities consistent with Paragraphs 24 and 30 below and should keep the other Authorities informed throughout the Emergency Situation.
23. Cooperation will be most useful in, but is not limited to, the following circumstances where issues of common regulatory concern may arise:
 - a. The initial application with the JFSA or a Canadian Authority for authorization, licensure, designation, recognition, qualification, registration, or exemption therefrom, by a CCP that is authorized, licensed, designated, recognized, qualified, registered, or exempted by an Authority in the other jurisdiction;
 - b. The ongoing supervision and oversight of a CCP including, for example, compliance with applicable statutory and regulatory requirements in either jurisdiction or with international standards, including the PFMLs; and
 - c. Regulatory or supervisory actions or approvals taken in relation to a CCP by the JFSA or a Canadian Authority that may impact the operations of the entity in the jurisdiction of the other Authority.

Event-Triggered Notification

24. As appropriate in the particular circumstances, the JFSA or the relevant Canadian Authority will endeavor to inform, respectively, the relevant Canadian Authority (or Authorities) or the JFSA promptly, and where practicable in advance, of:
 - a. Pending regulatory and/or legislative changes that may have a significant impact on the operations, activities, or reputation of a CCP, including those that may affect the rules or procedures of a CCP;
 - b. Any material event of which the Authority is aware that could adversely impact the financial or operational stability of a CCP including such events as a default or potential default of a Clearing Member; market or settlement bank difficulties that might adversely impact the CCP; failure by a CCP

² <https://www.iosco.org/about/?subsection=mmou>

to satisfy any of its requirements for continued registration, authorization, licensure, designation, qualification or recognition or exemption therefrom, where that failure could have a material adverse effect in the other jurisdiction; and any known adverse material change in the ownership, operating environment, operations, financial resources, management, or systems and controls of a CCP, including such as material cyberattack, breach in security or material system failure;

- c. The status of efforts to address any material financial or operating difficulties experienced by a CCP as described in Subparagraph b; and
 - d. Enforcement actions or sanctions or significant regulatory actions, including the revocation, suspension, or modification of relevant authorization, licensure, designation, recognition, qualification, registration, or exemption therefrom, concerning a CCP.
25. The determination of what constitutes “significant impact”, “material event”, “adversely impact”, “adverse material change”, “material adverse effect”, “market or settlement bank difficulties”, “adversely affect”, “material financial or operating difficulties”, or “significant regulatory actions” for purposes of Paragraph 24 should be left to the reasonable discretion of the relevant Authority that determines to notify the other Authority.

Request-Based Information Sharing

26. To the extent appropriate to supplement informal consultations, upon written request, the Requested Authority intends to provide the Requesting Authority the fullest possible cooperation, as set out in the terms of this MOC, in assisting the Requesting Authority’s supervision and oversight of CCPs, including assistance in obtaining and interpreting information that is relevant to ensuring compliance with the Laws and Regulations of the Requesting Authority and that is not otherwise available to the Requesting Authority. Such requests should be made based on ITEM FOUR of this MOC, and the Authorities anticipate that such requests will be made in a manner that is consistent with the goal of minimizing administrative burdens.
27. The information covered by Paragraph 26 includes:
- a. Information relevant to the financial and operational condition of a CCP including, for example, financial resources, risk management, and internal control procedures;
 - b. Relevant regulatory information and filings that a CCP is required to submit to an Authority including, for example, interim and annual financial statements and event specific notices; and
 - c. Regulatory reports prepared by an Authority, including, for example, examination reports, findings, or information contained in such reports regarding CCPs.

Periodic Meetings

28. Representatives of the Authorities intend to meet periodically, as appropriate, to update each other on their respective functions and regulatory oversight programs and to discuss issues of common interest relating to the supervision of CCPs, which may include contingency planning and crisis management, systemic risk concerns, default procedures, the adequacy of existing cooperative arrangements, and the possible improvement of cooperation and coordination among the Authorities. Topics for discussion are expected to be discussed and decided upon in advance of each periodic meeting. Such meetings may be conducted by conference call or on a face-to-face basis, as appropriate.

ITEM FOUR: EXECUTION OF REQUESTS FOR INFORMATION

29. To the extent possible, a request for information based on ITEM THREE should be made in writing, which may be transmitted electronically, and addressed to the relevant contact person identified in Appendix A. A request generally should specify the following:
- a. The information sought by the Requesting Authority;
 - b. A general description of the matter that is the subject of the request;
 - c. The purpose for which the information is sought; including the Laws and Regulations applicable to the request; and
 - d. The desired time period for reply and, where appropriate, the urgency thereof.

Information responsive to the request, as well as any subsequent communication among Authorities, may be transmitted electronically. Any electronic transmission should use means that are appropriately secure in light of the confidentiality of the information being transmitted.

30. In an Emergency Situation, the JFSA and the relevant Canadian Authority or Authorities will endeavor to notify the other(s) as soon as possible of the Emergency Situation and communicate information as appropriate in the particular circumstances, taking into account all relevant factors, including the status of efforts to address the Emergency Situation. During an Emergency Situation, requests for information may be made in any form, including orally, provided such communication is confirmed in writing as promptly as possible following such notification.

ITEM FIVE: ON-SITE VISITS

31. In fulfilling its supervision and oversight responsibilities and to ensure compliance with its Laws and Regulations, the JFSA may need to conduct On-Site Visits to a CCP located in Ontario, Canada, or in any other Canadian jurisdiction, and a Canadian Authority may need to conduct On-Site Visits to a CCP located in Japan. Each Authority will consult and work collaboratively with the Local Authority in conducting an On-Site Visit. Each Authority is responsible for ensuring any required notices or approvals are obtained to visit the other's jurisdiction for the purpose of the On-Site Visit. An On-Site Visit by an Authority will be considered in consultation with the other Authority, and will take place, taking full account of each other's sovereignty, legal framework and statutory obligations.
32. An On-Site Visit by an Authority will be conducted in line with the following procedure:
 - a. The Visiting Authority provides advance notice to the Local Authority of its intent to conduct an On-Site Visit and the intended timeframe for, and scope of, the On-Site Visit. Other than in exceptional circumstances, the Visiting Authority will notify the Local Authority prior to notifying the CCP.
 - b. The Local Authority will endeavor to share any relevant reports, or information contained therein, related to examinations it may have conducted of the CCP.
 - c. The Authorities will endeavor to assist each other regarding On-Site Visits, including providing information that is available prior to the On-Site Visit; cooperating and consulting in reviewing, interpreting, and analyzing the contents of public and non-public Books and Records; and obtaining information from directors and senior management of the CCP.
 - d. The Authorities will consult with each other, and the Local Authority may in its discretion accompany or assist the other Authority during the On-Site Visit, or the Authorities may conduct joint visits where appropriate.

ITEM SIX: PERMISSIBLE USES OF INFORMATION

33. The Requesting Authority may use non-public information obtained under this MOC solely for the supervision and oversight of CCPs and seeking to ensure compliance with the Laws and Regulations of the Requesting Authority.
34. The Authorities recognize that this MOC is primarily intended to gather information for supervisory purposes, not enforcement purposes. In cases where the Requesting Authority seeks to use non-public information obtained under this MOC for enforcement purposes, including in conducting investigations or bringing administrative actions, the Requesting Authority, to the extent permitted by relevant laws, will give prior notification to the Requested Authority of that change of purpose, including the applicable regulations and relevant provisions. Treatment of such non-public information will be consistent with the use and confidentiality provisions of the IOSCO MMOU, as revised from time to time.
35. Before using non-public information furnished under this MOC for any purpose other than those stated in Paragraphs 33 and 34, the Requesting Authority must first consult with and obtain the consent of the Requested Authority for the intended use. If consent is denied by the Requested Authority, the Authorities will consult to discuss the reasons for withholding approval of such use and the circumstances, if any, under which the intended use by the Requesting Authority might be allowed.
36. The restrictions in this ITEM do not apply to an Authority's use of information it obtains directly from a CCP, whether during an On-Site Visit or otherwise. However, where non-public information is provided to the

Requesting Authority in response to an information-sharing request stated in ITEM FOUR of this MOC, the restrictions in this MOC apply to the use of the information by that Requesting Authority.

ITEM SEVEN: CONFIDENTIALITY OF INFORMATION AND DISCLOSURE

37. Except as stated in Paragraphs 38 and 39, each Authority will keep confidential, to the extent permitted by law, non-public information disclosed under this MOC, requests made under this MOC, the contents of such requests, the non-public information provided by the Requested Authority and any other matters arising under this MOC.
38. As required by law, it may become necessary or appropriate for the Requesting Authority to disclose non-public information obtained under this MOC with a Governmental Entity in its jurisdiction. In such circumstances and to the extent permitted by law:
 - a. The Requesting Authority intends to notify the Requested Authority; and
 - b. Prior to the Requesting Authority disclosing the non-public information, the Requesting Authority will provide adequate assurances to the Requested Authority concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that:
 - i. The Governmental Entity has confirmed that it requires the information for a purpose within the scope of its jurisdiction; and
 - ii. The information will not be shared by the Governmental Entity with other third parties unless:
 - A. The Governmental Entity is required to do so by law; or
 - B. The Requested Authority has provided prior written consent.
39. The requirements in Paragraph 38 do not apply where the Requesting Authority discloses non-public information obtained under this MOC with a Governmental Entity that falls within the scope of Paragraph 13(a) and (b), provided that such Governmental Entity uses and treats that information in line with this MOC.
40. Except as stated in Paragraph 38 and 39, the Requesting Authority must obtain the prior written consent of the Requested Authority before disclosing non-public information received under this MOC to any non-signatory to this MOC, unless disclosure is required by law. The Requested Authority will take into account the level of urgency of the request and respond in a timely manner. During an Emergency Situation, consent may be obtained in any form, including orally, provided such communication is confirmed in writing as promptly as possible following such notification. If consent is denied by the Requested Authority, the Requesting and Requested Authorities will consult to discuss the reasons for withholding approval of such disclosure and the circumstances, if any, under which the intended disclosure by the Requesting Authority might be allowed.
41. To the extent possible, the Requesting Authority intends to notify the Requested Authority of any legally enforceable demand for non-public information furnished under this MOC. When complying with the demand, the Requesting Authority intends to assert all appropriate legal exemptions or privileges with respect to such information as may be available.
42. The Authorities intend that the disclosure of non-public information, including deliberative and consultative materials, such as written analysis, opinions, or recommendations relating to non-public information that is prepared by or on behalf of an Authority, based on this MOC, will not constitute a waiver of privilege or confidentiality of such non-public information.

ITEM EIGHT: REVISIONS

43. The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the JFSA and the Canadian Authorities with a view, inter alia, to expanding or altering the scope or operation of this MOC should that be judged necessary. This MOC may be revised with the written consent of all of the Authorities referred to in Paragraph 1.
44. With the approval of the JFSA, any Canadian Authority may become a signatory to this MOC by executing a counterpart hereof together with the JFSA and providing notice of such execution to the other Canadian Authorities that are signatories to this MOC.

ITEM NINE: COMMENCEMENT OF MOC

- 45. Cooperation under this MOC will commence on the date this MOC is signed by the Authorities.

ITEM TEN: SUCCESSORS

- 46. Where the relevant functions of a signatory to this MOC are transferred or assigned to another authority or authorities, this MOC will apply to the successor authority or authorities performing those relevant functions without the need for any further revision to this MOC or for the successor to become a signatory to the MOC and notice will be provided to the other Authorities. This will not affect the ability of any Authority to discontinue the MOC as stated hereunder. The Authorities should work to ensure a seamless transition to any successor into the MOC, including the continued handling of outstanding matters.
- 47. Where regulatory functions have been assigned to another authority or authorities under Paragraph 46, the successor authority may use non-public information previously obtained under this MOC if the successor authority uses and treats the information in line with this MOC.

ITEM ELEVEN: DISCONTINUATION

- 48. Cooperation under this MOC will continue until the 31st day after any Authority gives written notice to the other Authorities of its intention to discontinue the MOC. If an Authority gives such notice, the Authorities will consult concerning the disposition of any pending requests. If a consensus cannot be reached through consultation, cooperation will continue with respect to all requests for assistance that were made under the MOC before the end of the 30-day period until all requests are fulfilled or the Requesting Authority withdraws such request(s) for assistance. In the event of discontinuation of this MOC, information obtained under this MOC will continue to be treated in the manner stated under ITEMS SIX and SEVEN.
- 49. If any Canadian Authority discontinues the MOC in line with this ITEM, the MOC will continue between the JFSA and the remaining Canadian Authorities.

Signatures

Ontario Securities Commission

Financial Services Agency of Japan

Mr. D. Grant Vingoe
Title: Chief Executive Officer
Signed this 25th day of June 2024

Mr. KURITA Teruhisa
Title: Commissioner
Signed this 27th day of June 2024

Appendix A

CONTACT PERSONS

In addition to the following contact information, the JFSA and Canadian Authorities will exchange confidential emergency contact telephone information.

ONTARIO SECURITIES COMMISSION

20 Queen Street West
22nd Floor, Box C.P. 55
Toronto, ON M5H 3S8

Manager, Trading & Markets

Phone: +1(416) 593-3676

Email: marketregulation@osc.gov.on.ca

Director, Communications, International and Stakeholder Relations

Phone: +1(416) 593- 8314

Email: inquiries@osc.gov.on.ca

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3-2-1 Kasumigaseki,
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Director, International Financial Markets

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Phone: +81-3-3506-6035

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