



**MEMORANDUM OF COOPERATION BETWEEN DE NEDERLANDSCHE BANK AND
THE FINANCIAL SERVICES AGENCY OF JAPAN**

This Memorandum of Cooperation ("MoC") is made BETWEEN

De Nederlandsche Bank, with its headquarters at Spaklerweg 4, 1096 BA Amsterdam, the Netherlands,

hereinafter 'DNB',

AND

the Financial Services Agency of Japan, with its headquarters at 3-2-1 Kasumigaseki Chiyoda-ku Tokyo, 100-8967 Japan,

hereinafter the 'FSA',

(hereinafter referred to jointly as 'the Authorities' and each of them individually as 'the Authority')

WHEREAS:

- (1) DNB is the central bank of the Netherlands and in line with the Dutch Law on Financial Supervision (Wet op het financieel toezicht, Wft), and the national competent authority for prudential supervision of the financial sector in the Netherlands. Its prudential supervision focuses on the solidity of financial enterprises and the stability of the financial sector.
- (2) In line with the Act for Establishment of the Financial Services Agency (Act No. 130 of 1998), the FSA is the national competent authority for the supervision of banking, securities and insurance sectors in Japan. For the purpose of this MoC, the FSA is the national competent authority for prudential banking supervision in Japan.
- (3) The FSA takes part in this MoC on the basis of Article 4(24) of the Act for Establishment of the Financial Services Agency (Act No. 130 of 1998).
- (4) Through this MoC, DNB and the FSA express their willingness to cooperate with each other on the basis of mutual trust and understanding for the purpose of performing their supervisory tasks in respect of cross border credit institutions that fall within their supervisory responsibilities under the Dutch Law on Financial Supervision and the Act for Establishment of the Financial Services Agency (Act No. 130 of 1998).
- (5) The Authorities acknowledge the existence of a separate Memorandum of Cooperation between the FSA and the European Central Bank (MoC FSA/ECB).¹ Through the MoC FSA/ECB, the ECB and the FSA express their willingness to cooperate with each other on the basis of mutual trust and understanding for the purpose of performing their supervisory tasks in respect of cross border credit institutions that fall within their supervisory responsibilities under the SSM Regulation and the Act for Establishment of the Financial Services Agency (Act No. 130 of 1998).
- (6) This MoC exists in parallel with the MoC FSA/ECB.
- (7) The Authorities acknowledge that the scope of their cooperation under this MoC remains limited solely to their supervisory tasks in line with the applicable laws and regulations and that cooperation between the Netherlands and Japan regarding criminal proceedings is in line with the applicable procedures under the Agreement between the Netherlands and Japan on mutual legal assistance in criminal matters² and the tasks assigned under it to the relevant central authorities.
- (8) In order to allow for smooth communication between them, the Authorities will identify designated communication channels in order to facilitate communication pertaining to the activities covered by this MoC (see the list in the Appendix providing the contact details).

¹ [Memorandum of Cooperation between the ECB and the Financial Services Agency of Japan \(FSA\) \(europa.eu\)](#)

² Agreement between the European Union and Japan on mutual legal assistance in criminal matters (OJ L 39, 12.2.2010, p. 20–35).

THE AUTHORITIES ACKNOWLEDGE THE FOLLOWING:

DEFINITIONS³

For the purpose of this MoC:

- 'supervised entities' means entities that fall within the supervisory remit of the Authorities, as identified by their respective legislation, including their cross-border establishments⁴;
- 'Authority' means any of the signatories of this MoC, together also referred to as 'Authorities';
- 'cross-border establishment' means a branch, a subsidiary or any other entity of a supervised entity operating or located within one jurisdiction, and over which the Authority in the other jurisdiction exercises supervisory responsibilities;
- 'laws, regulations and requirements' means the provisions of the laws, or the regulations and requirements promulgated thereunder, of the Netherlands or of Japan;
- 'authorisation process' means the process in line with which a supervised entity is permitted to perform its activities⁵;
- 'qualifying holding assessments': the assessment that the Authorities are required to perform, in applying their respective legislations, in respect of purchases of, or variations in, holdings in a supervised entity, whether intended or accomplished and in whatever form⁶;
- 'assessment of directors' means the assessment that the Authorities are required to perform, when applying their respective legislations, in respect of those who direct the business of a supervised entity⁷;
- 'requested Authority' means an Authority to whom a request is addressed under this MoC;

3 The Authorities recognise that, while they may define terms differently in their laws, regulations and requirements, requests for assistance will not be denied solely on the grounds of differences in the definitions used by the requesting and requested Authorities.

4 For the Netherlands, the term can refer to banks, holding companies and financial institutions as licensed or defined under the Dutch Law on Financial Supervision. For the FSA, the term can refer to banking organisations and bank holding companies licensed by the Prime Minister pursuant to the Banking Act (Act No. 59 of June 1, 1981).

5 For DNB, the legal reference is department 2.2.2 of the Law on Financial Supervision. For the FSA, the legal reference is Articles 4, 27, 28, 52-17, 52-18 and 52-34 of the Banking Act (Act No. 59 of 1981), and Articles 29 and 29-4 of the Financial Instruments and Exchange Act (Act No.25 of 1948).

6 For DNB, the legal reference is Articles 3:95 and 3:96 of the Dutch Law on Financial Supervision. For the FSA, the legal reference is Article 52-9 and 52-10 of the Banking Act (Act No. 59 of 1981), and Article 32, 32-2 and 32-3 of the Financial Instruments and Exchange Act (Act No.25 of 1948).

7 For the Netherlands, the legal reference is Article 3:8 and 3:9 of the Dutch Law on Financial Supervision. For the FSA, the legal reference is Article 7-2 and 52-18 of the Banking Act (Act No. 59 of 1981), and Article 29-4 of the Financial Instruments and Exchange Act (Act No.25 of 1948).

- 'requesting Authority' means an Authority making a request under this MoC;
- 'jurisdiction' means the territory of the country concerned under this MoC.

Section 1

Purpose and general principles

1. The purpose of this MoC is to facilitate cooperation and information-sharing mechanisms between DNB and the FSA. Such cooperation is essential in order to promote the stability and efficiency of the supervised entities.
2. This MoC is aimed at ensuring the effective exchange of supervisory information for the performance of the Authorities' respective supervisory powers over supervised entities, to the extent permitted by law, and in line with the Core Principles for Effective Banking Supervision developed by the Basel Committee on Banking Supervision⁸.
3. The Authorities recognise that cooperation under this MoC may be denied on the grounds of laws, regulations and requirements, or public interest, as well as where it would interfere with an ongoing investigation or jeopardise the proper performance of the tasks of the Authorities, including due to resources constraints.

Section 2

Principles regarding exchange of information

1. Each Authority will endeavour to provide the other Authority, on a timely basis upon request or on its own initiative, where appropriate and insofar as feasible, with any information that is necessary for the exercise of the other Authority's supervisory tasks.
2. A request for information will include the following:
 - (a) a description of the facts underlying the request, and its purpose;
 - (b) the reasons why the information is likely to be relevant for the proper performance of the requesting Authority's tasks, and in light of the requesting Authority's legislation, including a specification of the supervisory tasks that are connected with the subject matter of the request;
 - (c) any information known to, or in the possession of, the requesting Authority that might assist the requested Authority in fulfilling the request.
3. Where a request for information is denied or the information requested is not available, the requested Authority will provide the reasons for not sharing the information.

⁸ Available on the Bank for International Settlements' website at www.bis.org.

4. The exchange of information will be conducted in writing, regardless of its format (paper, electronic communication or other). Both the request for information and the communication of the requested information will be addressed between the Authorities primarily through the designated communication channels (see the Appendix). In urgent circumstances, requests may be made by other means (e.g. telephone whenever possible), provided that they are subsequently confirmed in writing without undue delay. Information will not be shared until the written request is received, save for in urgent circumstances.
5. Sharing of information in line with this MoC will be conducted to the extent reasonable and in line with any relevant laws, regulations and requirements including those restricting disclosure. Following consultations between the Authorities, a request for assistance under this MoC may be denied:
 - (a) where the cooperation would require an Authority to act in a manner that would violate its applicable legal framework;
 - (b) where a request for assistance does not fall within the scope of this MoC or is not made in line with this MoC;
 - (c) on the grounds of public interest; or
 - (d) where it would interfere with an ongoing investigation or jeopardise the proper performance of the tasks of the Authorities.

Where a request for assistance is denied, or where assistance is not available under domestic laws and regulations applicable in the jurisdiction of the requested Authority, the requested Authority will provide the reasons for not granting the assistance.

Where the requested Authority presents grounds for not addressing the request in whole or in part, the Authorities intend to consult each other with a view to reach a recognition on the assistance that may be provided.

Section 3

Confidentiality

1. The Authorities acknowledge that all information exchanged on the basis of this MoC may be confidential information within the meaning of the Authorities' applicable legal framework. The Authorities will preserve the confidentiality of the information received to the extent permitted by their respective laws, regulations and requirements. In this regard, each Authority will keep confidential all information received from the other Authority. Any confidential information received by the requesting Authority from the requested Authority will be used exclusively for lawful supervisory purposes and will not be disclosed except as mentioned below.

2. The Authorities will ensure that all persons⁹ dealing with, or having access to confidential information (including members of the Authority, employees and external providers having access to confidential information) are bound by the obligations of professional secrecy in compliance with relevant laws, regulations and requirements.
3. Either Authority may be requested by a third party¹⁰ to disclose confidential information received under this MoC, or alternatively, may consider it appropriate to disclose confidential information to a third party, including a supervisory authority that might have a legitimate interest in such information. The prior consent of the requested Authority will be sought and obtained in writing by the requesting Authority before any disclosure to a third party of confidential information exchanged under this MoC will occur. The requested Authority may deny disclosure or impose conditions on the disclosure, including that the third party will keep the information confidential.
4. Where required under a legal obligation to disclose to a third-party confidential information received in line with this MoC, the requesting Authority will, to the extent permitted by law, inform the requested Authority prior to such disclosure about the purposes for which the information is proposed to be shared, the uses that the third party could make of the information and the safeguards that the third party would apply to ensure confidentiality. Where the requested Authority does not consent to the disclosure to a third party, the Authorities will consult with each other with a view to reaching a mutually acceptable arrangement. Prior to complying with such legal obligation, where possible and reasonable, the requesting Authority will take steps to avoid disclosure, including by employing available means to challenge the disclosure or by advising the third party of the possible negative consequences that such disclosure might have on the future exchange of confidential information between the Authorities.
5. Information received under this MoC will not be used for criminal proceedings carried out by a court or a judge. In the case that such use is needed, a request for mutual legal assistance in criminal matters should be made by the competent authority in line with the relevant laws, regulations and requirements.

Section 4

Protection of personal data

1. Without prejudice to the situations/cases of required disclosures covered under this MoC, the Authorities will treat personal data in line with the data protection laws and regulations applicable to them respectively.

⁹ For the purposes of this MoC, with regard to matters concerning information sharing, the Authorities acknowledge that staff from DNB in the Netherlands and the FSA in Japan performing activities in connection to the application of this MoC.

¹⁰ For the purposes of this MoC, 'a third party' is any party other than DNB and the FSA

2. In particular, DNB will process any personal data contained in the information received from the FSA under this MoC in line with the applicable EU legal framework, notably with Regulation (EU) 2018/1725 or Regulation (EU) 2016/679.
3. The FSA will process any personal data contained in the information received from DNB under this MoC in line with the Act on the Protection of Personal Information (Act No. 57 of 2003) and associated Guidelines for Protection of Personal Information in the Finance Sector.

Section 5

Cooperation in relation to the ongoing supervision

1. Each Authority will use its best endeavours to provide, upon prior request, or on its own initiative where appropriate, the other Authority with any information that is likely to be of assistance to it in order to promote the safe and sound functioning of supervised entities.
2. Each Authority will provide relevant information to the other in a timely manner, in particular following the occurrence of any event that has the potential to have a material adverse impact on the operations of a cross-border supervised entity in the other Authority's jurisdiction.
3. The above-mentioned information will be given insofar as legally and practically feasible and in line with applicable laws and regulations, and in line with the principles mentioned in this MoC.

Section 6

Ongoing coordination/cooperation

1. The Authorities will conduct meetings, as appropriate, to discuss issues concerning supervised entities that maintain cross-border establishments in their respective jurisdictions, and to review the achievement of this MoC. The Authorities also intend, where practicable, to promote their cooperation by means of visits for informational and cooperation purposes.
2. To the extent possible, the Authorities will conduct their communication via the designated contact persons listed in the Appendix. The Appendix may be modified by written notice from either Authority without the need to revise this MoC.
3. The above-mentioned information will be given insofar as legally and practically feasible and in line with applicable laws and regulations, and in line with the principles mentioned in this MoC.

Section 7

Cooperation in relation to the authorisation process, qualifying holding assessments and the assessment of directors

1. The Authorities will endeavour to notify each other, without delay, of applications for approval by supervised entities from their respective jurisdictions to establish cross-border establishments or make cross-border acquisitions in their respective jurisdictions.
2. Upon request, the Authorities will inform each other whether the applicant is in substantial compliance with applicable laws and regulations and whether it may be expected, in light of its administrative structure and internal controls where relevant, to manage the supervised entity or the cross-border establishment in an orderly manner. The Authorities will also, upon request, assist each other with verifying or supplementing any information submitted by the applicant.
3. Upon request, the Authorities will inform each other about the nature of its supervisory framework and the extent to which it will conduct supervision, including consolidated or group-wide, over the applicant.
4. Upon request, and where available, the Authorities will supply each other with information on proposed acquirers.

The above-mentioned information will be given insofar as legally and practically feasible and in line with applicable laws and regulations, and in line with the principles mentioned in this MoC.

5. To the extent permitted by their respective laws and regulations, the Authorities will share information on the fitness and propriety of prospective directors and managers of a cross-border establishment. The communication of such personal data is in line with their respective laws and regulations on personal data.

Section 8

Cooperation in relation to pecuniary penalties and sanctions

1. Upon request, each Authority will endeavour to inform the other of administrative pecuniary penalties, or sanction decisions in respect of cross-border establishments or in respect of supervised entities, insofar as it relates to the operation of cross-border establishments in that jurisdiction.
2. The above-mentioned information will be given as far as practicable and in line with applicable laws and regulations, and in line with the principles mentioned in this MoC.

Section 9

Cooperation in relation to on-site visits

1. Upon request, the Authorities will assist each other, as far as practicable, with the conduct of on-site visits of cross border establishments situated in the other Authority's jurisdiction. Where assistance cannot be provided, the Authority requested to provide assistance will notify the other Authority with reasons as soon as deemed practical.
2. The Authorities will duly notify each other in advance of plans to visit a cross-border establishment, or to appoint a third party to conduct an on-site visit on its behalf, and will endeavour to do so at least one month in advance for non-urgent missions. This notification will detail the purposes, scope, expected starting and ending dates of the visit, the cross-border establishment to be visited, and the names of the persons leading the visit. Before conducting an on-site visit, the Authorities will communicate those plans with each other and reach a common recognition of the terms regarding the on-site visit with full respect to each other's sovereignty and laws. With mutual consent, the Authorities may accompany each other on such a visit. On conclusion of the visit of the cross-border establishment, the Authority performing the visit will inform the other Authority and share any relevant reports, or information contained therein, and discuss, as necessary, any material issues having emerged from the visit.
3. The above-mentioned information will be given insofar as possible and in line with applicable laws and regulations, and in line with the principles mentioned in this MoC.

Section 10

Cooperation in relation to emergency situations

1. The Authorities will inform each other immediately if they become aware of an incipient crisis such as, but not limited to, serious financial difficulties which might have an adverse impact on operations relating to any supervised entity in the respective jurisdictions of the Authorities.
2. To the extent possible, and without prejudice to their involvement in the relevant cross-border cooperation fora, the Authorities will endeavour to seek coordinated responses to any crisis emerging in a cross-border establishment operating in their respective jurisdictions, in line with their respective applicable legislations.

Section 11

Status of this MoC

1. This MoC sets forth a statement of intent and does not modify or supersede any laws, regulations or requirements in force in, or applying to, the Netherlands or Japan. This MoC does not create any directly or indirectly enforceable rights and obligations for the Authorities or any third party.
2. This MoC is without prejudice to other cooperation frameworks that each Authority might participate, and can be supplemented with specific memoranda of cooperation between the same Authorities for the purpose of cooperating for the supervision of a specific cross-border establishment.
3. The Authorities will use their best endeavours in the performance of this MoC. However, neither Authorities nor any third party can hold or be held responsibility regarding the performance of this MoC.
4. Any dispute arising from the implementation of this MoC will be amicably settled by means of consultations between the Authorities.
5. Any modification to this MoC will be made in English and in writing. The FSA will be responsible for any translation into Japanese required by the national law of Japan.
6. Cooperation under this MoC will commence on the date of signature by both Authorities and will continue indefinitely, in line with modification with mutual consent of the Authorities or discontinuation by either Authority with 30 days prior notice to the other Authority.
7. In the event of the discontinuation of this MoC, the information obtained hereunder will continue to be treated in line with the confidentiality regime as stated under this MoC.

Section 12

Publication

Following prior consent of the Authorities, this MoC, excluding the contact list in the Appnedix, may be made publicly available in full or in part by either of the Authorities, at any time and in any manner including publication electronically on the websites of the Authorities.

For DNB

For the FSA

Date: 3 July 2024

Date: 28 June 2024

[signed]

[signed]

Steven Maijor

Toshiyuki Miyoshi

Executive Board Member and Chair of
Supervision

Vice Commissioner for International Affairs

De Nederlandsche Bank

Financial Services Agency of Japan

Appendix redacted