

Agreement between the Central Bank of the Russian Federation and the Central Bank of Mongolia on Co-operation in Supervising the Activities of Credit Institutions

Informal translation¹

Agreement between the Central Bank of the Russian Federation (Bank of Russia) and the Central Bank of Mongolia (Mongolbank) on Cooperation in the Field of Banking Supervision

The Central Bank of the Russian Federation (Bank of Russia) and the Central Bank of Mongolia (Mongolbank), hereinafter referred to as the 'banking supervisory authorities,' have agreed about the need to share information for the purpose of ensuring the effective performance of their functions and increasing the reliability and stability of the banking systems of their countries. This agreement also complies with the Basel Committee recommendations on the principles of consolidated and comprehensive supervision and cooperation between the banking supervisory authorities.

1. The Powers of the Banking Supervisory Authorities

1.1. The Russian Federation

Under the law of the Russian Federation, the Bank of Russia is a body of banking regulation and banking supervision. It constantly monitors the compliance by credit institutions and banking groups (bank holdings) with banking legislation and Bank of Russia regulations and required ratios. To perform its regulatory and supervisory functions, the Bank of Russia conducts inspections of credit institutions (and their branches), sends them compulsory prescriptions to eliminate the shortcomings discovered in their work and applies sanctions against credit institutions provided for by the Federal Law on the Central Bank of the Russian Federation (Bank of Russia).

1.2. Mongolia

Under the law of Mongolia, Mongolbank is a body of banking regulation and banking supervision. To protect the rights and interests of bank depositors and customers and ensure stability of the banking system, it issues permits (licences) to banks and supervises the observance by banks of banking legislation and Mongolbank regulations and mandatory standards.

The activities of Mongolbank relating to the establishment of banks, the issue and revocation of licences and also the supervision of banks and the taking of measures binding on them are regulated by the Law on the Central Bank of Mongolia (Mongolbank) and the Law on Banks.

2. For the Purposes of this Agreement:

2.1. Supervised institution is a legal entity authorised to conduct banking operations and whose activities are subject to licensing and banking supervision under the law of the Russian Federation or Mongolia.

2.1.1. In the Russian Federation

Credit institution is a legal entity which, for the purpose of making profit as the principal objective of its activity, has the right on the basis of a special permit (licence) issued by the Bank of Russia to conduct banking operations stipulated by the Federal Law on Banks and Banking Activities. A credit institution is established on the basis of any form of ownership as a business entity.

Bank is a credit institution that has the exclusive right to conduct the following banking operations in their entirety: take funds on deposit from private individuals and legal entities, place these funds on its own behalf and at its own expense on a repayable and chargeable basis for a specified term and open and maintain individual and corporate bank accounts.

Non-bank credit institution is a credit institution that has the right to conduct individual banking operations stipulated by the Federal Law on Banks and Banking Activities. The Bank of Russia determines the permissible combinations of banking operations for non-bank credit institutions.

2.1.2. In Mongolia

Bank is a legal entity with an authorised capital composed of funds of shareholders who bear financial responsibility equal to the amount of funds they have invested, which takes funds on deposit, extends loans on its own behalf and provides settlement and other financial intermediary services for the purpose of making profit under a special permit (licence) issued by Mongolbank.

2.2. Supervised parent institution is a supervised institution that has a cross-border establishment (a branch, subsidiary or representative office) located in another country.

2.3. Cross-border establishment

2.3.1. The Russian Federation

In the Russian Federation, foreign banks may set up subsidiaries resident in the Russian Federation or participate in some other form in the authorised capital of a credit institution resident in the Russian Federation and also open representative offices. The activities of credit institutions set up with the participation of foreign capital are subject to licensing in compliance with the requirements of the Russian Federation legislation.

Pursuant to the Russian Federation legislation:

Subsidiary credit institution is a legal entity in which the supervised parent institution can determine the decisions taken by the subsidiary credit institution due to its majority holding in authorised capital or under an agreement concluded between them or otherwise.

Representative office of a credit institution is a separate division of a credit institution located outside the residence of the supervised parent institution and representing and protecting its interests. A representative office of a credit institution has no right to conduct banking operations. A representative office of a credit institution is not a legal entity and conducts its activities on the basis of the regulation approved by the founding credit institution.

2.3.2. Mongolia

In Mongolia, foreign banks may set up banks resident in Mongolia or participate in the authorised capital of banks resident in Mongolia by making contributions to authorised capital or purchasing shares in conformity with Mongolia legislation and also open branches and representative offices.

Pursuant to Mongolia legislation:

Bank branch conducts the activities that conform to the permit (licence) of Mongolbank.

Representative office of a bank is a separate division set up to represent the bank. It has no right to conduct banking operations.

2.4. Home country is the country in which the supervised parent institution is registered.

2.5. Host country is the country where the cross-border establishment is registered and/or operates.

2.6. Inspection is an examination conducted in a cross-border establishment in the appropriate manner by the authorised representatives of the home country supervisory authority.

3. The Sharing of Information

3.1. To ensure and enhance the effectiveness of supervision of the supervised institutions and their cross-border establishments, the supervisory authorities express the wish to cooperate and exchange information in the following areas: licensing; owner oversight; on-going supervision; inspection; countering the legalisation (laundering) of criminally obtained incomes and the financing of terrorism.

The banking supervisory authorities intend to share information on the state and development of the national banking sector, the major supervisory standards and requirements and the material changes made therein.

3.2. In the Russian Federation, the sharing of information with the banking supervisory authorities of foreign states is regulated by the Federal Law on the Central Bank of the Russian Federation (Bank of Russia). Pursuant to Article 51 of the Federal Law on the Central Bank of the Russian Federation (Bank of Russia), the Bank of Russia may request the central bank and banking supervisory authority of a foreign state to provide information or documents received from credit institutions in the course of supervision and provide to the banking supervisory authority of a foreign state such information and documents that contain no data about operations conducted by credit institutions and their customers, provided that this banking supervisory authority maintains the information safety regime complying with the information safety requirements established by the Russian Federation legislation for the Bank of Russia. As regards the information and documents received from central banks and banking supervisory authorities of foreign states, the Bank of Russia must comply with the requirements for the disclosure of information and provision of documents established by the Russian Federation legislation, bearing in mind the requirements established by the laws of these foreign states.

3.3. In Mongolia, pursuant to the Law on the Central Bank of Mongolia (Mongolbank) of September 3, 1996, Mongolbank cooperates in the interests of the state with international and foreign banks and credit institutions in compliance with law and international agreements.

3.4. Cooperation within the framework of this Agreement is conducted on the initiative of one of the banking supervisory authorities upon request for assistance (hereafter 'request') or by providing information by one banking supervisory authority to the other banking supervisory authority.

3.5. Requests shall be made in writing. Any means of communication may be used to convey a request.

3.6. A request for assistance within the framework of this Agreement may be denied fully or partly if the banking supervisory authority believes that its fulfilment would contravene national legislation or state interests. In such cases the requesting banking supervisory authority shall be notified of the denial in writing and given the reasons for it.

3.7. Each banking supervisory authority shall take all the necessary measures to respond to a request of the other banking supervisory authority as soon as possible and as fully as possible or notify the requesting banking supervisory authority about the circumstances preventing or delaying the fulfilment of the request.

4. Confidentiality of Information

4.1. The banking supervisory authorities shall take the necessary measures to ensure confidentiality of information and/or the documents received from the other banking supervisory authority in the process of safekeeping, using or passing them to each other by any means of communication.

4.2. Confidential information and/or documents provided within the framework of this Agreement may not be used for purposes other than those for which they were requested and provided without the consent of the providing banking supervisory authority.

4.3. Confidential information and/or documents may be passed to a third party if there is written permission by the banking supervisory authority that provided the confidential information and/or documents, except for the cases when this is required by national legislation.

4.4. Should this Agreement be terminated, the information and/or documents received pursuant to this Agreement shall remain confidential.

5. Licensing

5.1. A request by a supervised parent institution made to the host country banking supervisory authority regarding the issue of a licence (permit) to open a cross-border establishment (hereafter 'request') shall be considered by the host country banking supervisory authority within the time periods and in compliance with the requirements set by national legislation.

5.2. Having received the request, the host country banking supervisory authority shall inform the home country banking supervisory authority about its contents and having considered it, the host country banking supervisory authority shall notify the home country banking supervisory authority in writing about the results of the consideration.

5.3. In response to the relevant request, the home country banking supervisory authority shall inform the host country banking supervisory authority whether the supervised institution complies with national legislation and in what state its corporate governance and risk management and internal control systems are. The home country banking supervisory authority shall inform the host country banking supervisory authority whether the candidates for executive positions in the cross-border establishment meet the qualification requirements.

6. Cooperation in Owner Oversight

6.1. The banking supervisory authorities shall consult each other before issuing permission to a legal entity and/or private individual or a group of legal entities and/or private individuals to acquire shares (stakes) in a supervised institution registered in another country.

6.2. For the purposes of this Agreement, acquisition signifies the purchase and/or receipt in trust of a stake in the authorised capital of a supervised institution registered in the Russian Federation or in Mongolia in the amount that under national legislation requires the permission of or consultation with the corresponding supervisory authority.

7. Cooperation in On-going Supervision

7.1. The banking supervisory authorities shall inform each other about their concern regarding financial stability of the supervised parent institutions. They shall also notify each other as soon as possible about the actions they undertook in regard of a cross-border establishment as the host country supervisory authority or in regard of a supervised parent institution as the home country supervisory authority, if they consider this information material for the other banking supervisory authority to perform its functions.

7.2. The banking supervisory authorities shall discuss with each other any significant information on the supervised parent institutions or cross-border establishments, if they consider this information important for the other supervisory authority, for the purpose of assisting this supervisory authority in performing its functions. Specifically, the following issues shall be discussed: concern about financial soundness of a supervised parent institution or cross-border establishment (failure to meet the capital adequacy requirements or other financial ratios, significant financial losses, rapid decline in profits or the slowing of the rate of return); concern regarding supervision on an individual and consolidated basis; concern regarding the analysis of accounts and reports; concern regarding late reporting and/or misreporting.

8. Cooperation in Conducting Inspections

8.1. The banking supervisory authorities have agreed that cooperation is especially important in conducting inspections of cross-border establishments and supervised parent institutions. The banking supervisory authorities shall provide to each other full information and consultative support when conducting such inspections. The home country banking supervisory authority shall regulate on its own the relations with cross-border establishments regarding the access of its representatives to inspections. Therefore, the host country supervisory authority shall not deny free access of the home country supervisory authority to a cross-border establishment.

8.2. The banking supervisory authorities shall notify each other in advance about plans to conduct an inspection, reporting the name of the cross-border establishment, the inspection period, inspection issues and times and information about its representatives who will conduct the inspection.

8.3. The banking supervisory authorities shall inform each other about inspection results within the limits set by national legislation.

9. Cooperation in Countering the Legalisation (Laundering) of Criminally Obtained Incomes and the Financing of Terrorism

To perform their supervisory functions, the banking supervisory authorities shall exchange the following information:

— on national legislation and regulations on countering the legalisation (laundering) of criminally obtained incomes and the financing of terrorism;

- on the practice of identifying and scrutinising customers and beneficiaries;

— on the observance by the supervised parent institutions and their cross-border establishments of national legislation on countering the legalisation (laundering) of criminally obtained incomes and the financing of terrorism;

— on typical schemes used to legalise (launder) criminally obtained incomes and finance terrorism.

10. Other Provisions

10.1. The banking supervisory authorities shall ensure that the lists of supervised institutions are accessible online or by any other means.

10.2. Whenever necessary, representatives of the banking supervisory authorities shall meet to discuss and resolve problems relating to supervision of cross-border establishments. Such meetings may also deal with issues relating to the implementation of this Agreement.

10.3. Each banking supervisory authority shall cover on its own the expenses that may arise in the course of implementing this Agreement unless another procedure is agreed upon.

10.4. To ensure the practical implementation of cooperation after the coming into force of this Agreement, the banking supervisory authorities shall exchange lists of contacts, indicating their full names, job titles, telephone and fax numbers and email addresses.

10.5. Information about the Bank of Russia and the banking system, laws and regulations of the Russian Federation is available on the Bank of Russia website at www.cbr.ru.

Information about Mongolbank and the banking system, laws and regulations of Mongolia is available on the Mongolbank website at www.mongolbank.mn.

The Bank of Russia and Mongolbank shall not object to this Agreement being posted on their websites.

10.6. This Agreement shall come into force as of the date of its signing and shall remain effective until one of the banking supervisory authorities notifies in advance the other banking supervisory authority in writing about its decision to terminate it. In that case, this Agreement shall remain in force for 30 days after the above notification. Requests for assistance made during this period shall be executed by the supervisory authorities pursuant to the terms and conditions of this Agreement.

10.7. As soon as this Agreement comes into force, the Agreement between the Central Bank of the Russian Federation and the Central Bank of Mongolia on Cooperation in Supervising the Activities of Credit Institutions, dated September 29, 1997, will be terminated.

10.8. Done in two authentic copies, one in the Russian language and one in the Mongol language, both texts being equally valid. Should differences arise in interpreting the provisions of this Agreement, the banking supervisory authorities shall refer to the Russian language text.

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| For the Central Bank of the Russian Federation | For the Central Bank of Mongolia |
| G. G. Melikyan, First Deputy Chairman of the Central Bank of the Russian Federation | A. Batsukh, President of the Central Bank of Mongolia |
| September 17, 2008 | September 17, 2008 |

¹ [*The original document is signed in the Russian language.*](#)