

MEMORANDUM OF UNDERSTANDING
BETWEEN THE INTERNATIONAL TAX AUTHORITY
And
THE FINANCIAL SERVICES COMMISSION
CONCERNING
COOPERATION AND THE EXCHANGE OF INFORMATION

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MEMORANDUM OF UNDERSTANDING
BETWEEN THE INTERNATIONAL TAX AUTHORITY
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Preamble

The International Tax Authority and the Financial Services Commission (each hereinafter referred to as "the relevant Authority" or collectively as "the Authorities"), desire, in a spirit of co-operation and information exchange, and within the framework of the Authorities' own legislative framework, to facilitate cooperation in the areas of compliance which are within the remit of the respective Authorities, the sharing of intelligence and the exchange of information where permitted by legislation, and the provision of mutual support and services as set out herein.

To that end, the Authorities have reached an understanding as follows:-

Article I : Purpose and Scope

1. The purpose of this Memorandum of Understanding (the "Memorandum") is to establish a formal basis for co-operation and information exchange between the Authorities to facilitate cooperation in the areas of compliance which are within the remit of the respective Authorities, the sharing of

intelligence and the exchange of information where permitted by legislation, and the provision of mutual support and services as set out herein.

2. The Memorandum includes requesting and providing information, where permitted or required by legislation, on persons or persons associated with persons who are authorised, licensed, registered, recognised or otherwise regulated by the Financial Services Commission and on persons who are monitored by the International Tax Authority pursuant to its statutory powers and obligations.
3. The provisions of the Memorandum are not intended to create legally binding obligations or to supercede the laws of the Virgin Islands or to create any directly or indirectly enforceable rights.

Article II: Governing Principles

1. Subject to the laws of the Virgin Islands, the Authorities will provide each other with the fullest assistance possible consistent with their statutory functions and obligations.
2. The Authorities will consider requests received under the Memorandum seriously and without undue delay.
3. The information acquired in application of the Memorandum is confidential and, as a general rule, any information received under the Memorandum shall be treated as confidential except where otherwise indicated or where information is passed on in summary or aggregate form such that individuals or entities cannot be identified.
4. The information or documents obtained from the Authorities will not be disseminated to any third party, nor be used for administrative, prosecutorial or judicial or other legal purposes without the prior written consent of the relevant Authority. It is agreed and understood that information obtained in accordance with the Memorandum can only be used in relation to the stated objects of the Memorandum and in accordance with the Authorities' statutory functions and obligations.
5. The Authorities will not permit the use or release of any information or document obtained from the other Authority for purposes other than those stated in the Memorandum without the prior written consent of the other relevant Authority.
6. The Authorities agree to making requests under the Memorandum only where they have a legitimate interest in information about persons or persons associated with persons authorised, licensed, registered, recognised

or otherwise regulated by the Financial Services Commission or on persons who are monitored by the International Tax Authority pursuant to its statutory powers and obligations.

7. The Memorandum is not intended to facilitate requests for information that has been or is publicly available. Requests should be limited to cases where confirmation or non-public information is sought or where public information proves difficult to obtain from other sources when it may be readily delivered by the Authorities.
8. The Authorities are under no obligation to give assistance if judicial or legal proceedings have already been initiated concerning the same facts as the request relates to.

Article III: Information Exchange and Procedures

1. To the fullest extent permitted by legislation, and subject to and respecting any explicit confidentiality obligations which attach to the information in the possession of a relevant Authority which prevent onward disclosure, the Authorities will exchange with each other information in their possession or that they are privy to which may be relevant to any matter concerned or associated with the other's area of responsibility¹.
2. Information under this Article may be exchanged through any of the following processes:
 - a. Spontaneously and proactively, where the relevant Authority has information which it considers would be useful to the other Authority, whether for the purposes of an on-going investigation, international cooperation, supervision, enforcement or compliance with any areas which are within the remit of the respective Authority, or for other purposes relating to its statutory duties or otherwise. The relevant Authority will transmit such information as soon as practicable after it receives or becomes aware of it, without any formal request; or
 - b. upon written request as set out hereinafter at paragraphs 3-8 of this Article.
3. Any written request for information made under the Memorandum will normally be made through the use of the Request Form at Annex A.

¹ Cf Article 3.1 of the InterGovernmental Committee to which both the ITA and the FSC are parties

4. Any request made will include the following elements:
 - a. the purpose for which the information is sought and the relevant legislative provisions pertaining to the request;
 - b. details of the request comprising information on the person or entity concerned such as a description of the facts underlying the request, specific questions to be asked and an indication of any sensitivity concerning the request;
 - c. a statement as to whether details provided by the relevant Authority should be confirmed or verified and if so what kind of confirmation or verification is sought; and
 - d. a statement as to whether and to whom confidential information is likely to be passed on.
5. Upon receipt of a written request under the Memorandum, the Authorities will confirm the receipt of the request in writing. The Authorities will also confirm whether it is in a position to process the request and the anticipated timeframe for so doing.
6. The relevant Authority will assess each request on a case-by-case basis and in deciding whether and to what extent to fulfil a request, the Authorities may take into account:
 - a. whether the request conforms to the Memorandum;
 - b. whether compliance with the request would be so burdensome as to disrupt the proper performance of the functions of the relevant Authority;
 - c. whether it would be otherwise contrary to the essential interest of the jurisdiction of the relevant Authority to provide the information requested;
 - d. any other matter specified by the laws of the Virgin Islands (in particular those relating to confidentiality and the rules of natural justice including procedural fairness); and
 - e. whether complying with the request may otherwise be prejudicial to the performance of the statutory function of the relevant Authority.

7. Where the Authorities cannot entirely fulfil a request received it will co-operate with and assist to the fullest extent possible.
8. In urgent cases in which the use of the prescribed procedure is not appropriate, a request can be presented orally subject to written confirmation within 5 business days.

Article IV: Points of Contact

1. To facilitate cooperation and information exchange under the Memorandum, the Authorities hereby designate the following points of contact and all communications between the Authorities shall take place only between these points of contact unless agreed otherwise in a particular case:

Point of Contact Financial Services Commission:-

The Director
Legal Division,
Financial Services Commission
18 Pasea Estate Road,
Tortola, British Virgin Islands
VG1110

Tel: 284 852 4757
Fax: 284 494 5016

Point of Contact International Tax Authority:

The Director
International Tax Authority
2nd Floor, Omar Hodge Building
Tortola, British Virgin Islands
VG1110

Tel: 284 468 3701 ext 4415
Fax: 284 494 4416

Article V: Costs

1. Where the costs of fulfilling a request are likely to be substantial, the Authorities may, as a condition of agreeing to provide assistance under the Memorandum request a contribution to costs.

Article VI: Mutual Support and Services

1. The Authorities will each use their best endeavours to provide support and cooperation to the other relevant Authority including, but not limited to, training, the sharing of know-how, technical assistance, assistance with conducting compliance or other inspections including accompanying the other Authority on an onsite inspection or participating in a desk-based inspection to the fullest extent permitted by legislation and consistent with their statutory functions and obligations.

Art. VII: Commencement, Amendments and Termination

1. The Memorandum may be amended in writing at any time.
2. The Memorandum is revocable at any time and its termination will become effective on receipt by and from the relevant Authority of written notification of the termination.
3. The Memorandum will become effective upon execution.



IN WITNESS WHEREOF, the parties hereto have caused this Memorandum of Understanding to be executed by their duly authorised representatives on the date indicated.

This Memorandum of Understanding is signed in duplicate

BY the FINANCIAL SERVICES COMMISSION



Name: Jennifer Potter-Questelles

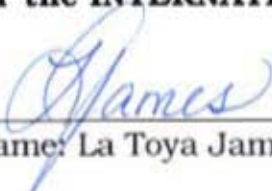
Title: Ag. Managing Director, Financial Services Commission

Date: 24th JULY 2020

SEAL



BY the INTERNATIONAL TAX AUTHORITY



Name: La Toya James

Title: Director, International Tax Authority

Date: 18th AUGUST, 2020

SEAL



Annex A
FSC/ITA Request Form

This Request Is Being Made Under the Memorandum of Understanding
Between The International Tax Authority and the Financial Services
Commission Concerning Cooperation and the Exchange of Intelligence and
Information

1. TO: Point of Contact

Name:

Telephone and Fax numbers:

E-mail address:

2. FROM: Point of Contact

Name:

Telephone and Fax numbers:

E-mail address:

3: Issue Concerned

a. Information is requested concerning

- Registered Company
- Regulated entity
- Other, please specify:

b. Information is based on a valid purpose and relates to

- Licensing
- Fit and proper criteria
- Ongoing supervision, including auditing matters
- Winding up, liquidation or bankruptcy
- Anti money laundering (AML) or combating the financing of terrorism (CFT)
- Supervisory practices
- Other, please specify:

c. Please state your legitimate interest in the information requested and the legislative provision under which the request is made.

d. Criminal or other judicial proceedings have been initiated:

Yes No

If yes, please specify:

e. Priority of the issue:

Normal

Urgent

4. Details of Request

a. Name of individual or entity on which information is requested:

Name: _____

Address: _____

Any other relevant information _____

b. Specific description of the kind of information needed or assistance sought, including sources of information that could be explored:

c.. Should the facts provided be confirmed or verified:

a) Confirmation: Yes No

b) Verification: Yes No

If yes, please provide further details:

d. Dates of previous requests on this matter:

5. Passing on of information

I hereby confirm that confidential information is treated in compliance with the Memorandum of Understanding and the laws of the Virgin Islands and where the information is likely to be passed on, it will be passed to the following the body for the reasons stated below:-

Signed : -----

NAME:

Title:

Date

