



Memorandum of Understanding

For Mutual Co-operation and the Exchange of Information

Between

Financial and Consumer Affairs Authority of Saskatchewan, Canada
(FCAA)

-and-

Securities and Exchange Board of India
(SEBI)

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PREAMBLE

The Authorities, the Financial and Consumer Affairs Authority of Saskatchewan (FCAA) and the Securities and Exchange Board of India (SEBI):

- ❖ Considering the increasing internationalisation and interdependence of securities and derivatives markets due to the use of modern technology, and the corresponding need for mutual cooperation and consultation; and
- ❖ Desiring to provide a formal basis for co-operation, including the exchange of information and providing investigative assistance, in order to improve the strength of the securities and derivatives regulation in both Saskatchewan and India;

Have reached the following understanding:

Article 1: Background

- (1) FCAA is a Treasury Board Crown Corporation established under the *Financial and Consumer Affairs Authority of Saskatchewan Act* that is responsible for, *inter alia*, the administration and enforcement of Saskatchewan provincial legislation that regulates securities and derivatives. FCAA has the mandate to protect consumers and enhance public confidence in the financial and consumer marketplace through the provision of regulatory and educational services. With respect to securities and derivatives markets, FCAA is responsible for, *inter alia*, registration, regulation and supervision of market participants, regulation and oversight of self-regulatory organizations and other regulated entities and prohibiting abusive trade practices.
- (2) SEBI was established under the Securities and Exchange Board of India Act, 1992 to regulate the securities market in India. The objectives of SEBI are to protect the interests of the investors, to promote development of and to regulate the securities market in India. The main functions of SEBI include registration, regulation and supervision of intermediaries operating in the securities market, promoting and regulating self-regulatory organizations, prohibiting fraudulent and unfair trade practices relating to securities market, calling from or furnishing to other authorities, whether in India or abroad, such information as may be considered necessary by it for the efficient discharge of its functions.

Article 2: Definitions

For the purposes of this Memorandum of Understanding (MoU):

- (i) "**Authority**" means the FCAA or SEBI and "**Authorities**" means both of them.
- (ii) "**FCAA Market**" means the Saskatchewan securities and derivatives market.
- (iii) "**ISM**" means the Indian securities market.
- (iv) "**Laws and Regulations**" means the provisions of any laws, regulations, rules or requirements applicable within the respective jurisdictions of the Authorities, and where the context permits, includes:
 - a) any law, regulation or requirement applicable in the FCAA Market or ISM; and
 - b) any rule, direction, requirement, guidance or policy made or given by or to be taken into account by an Authority in relation to FCAA Market or ISM
- (v) "**Person**" means a natural or legal person or company, or unincorporated entity or association, including corporations and partnerships.
- (vi) "**Requested Authority**" means an Authority to whom a request for assistance is made under this MoU.
- (vii) "**Requesting Authority**" means an Authority making a request for assistance under this MoU.
- (viii) "**Securities and Derivatives Laws**" means legislation, regulations and rules pertaining to securities and derivatives.

Article 3: Mutual Assistance and the Exchange of Information

- (1) This MoU sets forth the Authorities' intent with regard to mutual assistance and the exchange of information for the purpose of enforcing and securing compliance with the Securities and Derivatives Laws applicable in the respective jurisdictions of the Authorities. The provisions of this MoU are not intended to create legally binding obligations or supersede the applicable Laws and Regulations of the Requested Authority.
- (2) The Authorities represent that no Laws and Regulations regarding secrecy should prevent the collection or provision of the information set forth in Article 4 (2) to the Requesting Authority.
- (3) This MoU does not authorize or prohibit an Authority from taking measures other than those identified herein to obtain information necessary to ensure enforcement of, or compliance with, the Laws and Regulations applicable in its jurisdiction.
- (4) This MoU does not confer upon any Person not an Authority, 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 MoU.
- (5) The Authorities recognize the importance and desirability of providing mutual assistance and exchanging information for the purpose of enforcing, and securing compliance with the Securities and Derivatives Laws applicable in their respective jurisdictions. A request for assistance may be denied by the Requested Authority:
 - a) where the request would require the Requested Authority to act in a manner that would violate the Laws and Regulations applicable in its jurisdiction;
 - b) where a criminal proceeding has already been initiated in the jurisdiction of the Requested Authority based upon the same facts and against the same Persons, or the same Persons have already been the subject of final punitive sanctions on the same charges by the competent authorities of the jurisdiction of the Requested Authority, unless the Requesting Authority can demonstrate that the relief or sanctions sought in any proceedings initiated by the Requesting Authority would not be of the same nature or duplicative of any relief or sanctions obtained in the jurisdiction of the Requested Authority;
 - c) where the request is not made in accordance with the provisions of this MoU;
 - d) on grounds of public interest or essential national interest.
- (6) Where a request for assistance is denied, or where assistance is not available under applicable Laws and Regulations in the jurisdiction of the Requested Authority, the Requested Authority will provide the reasons for not granting the assistance and consult pursuant to Article 9.

Article 4: Scope of Assistance

- (1) The Authorities will, within the framework of this MoU, but subject to the availability of resources and any limitations in their respective Laws and Regulations, provide each

other with the fullest assistance permissible under their respective Laws and Regulations for the purpose of enforcing, and securing compliance with the Securities and Derivatives Laws applicable in the respective jurisdictions of the Authorities.

- (2) Subject to the availability of resources and any limitations in their respective Laws and Regulations, the assistance available under this MoU include:
 - a) providing information and documents held in the files of the Requested Authority regarding the matters set forth in the request for assistance;
 - b) obtaining information and documents regarding the matters set forth in the request for assistance, including:
 - (i) contemporaneous records sufficient to reconstruct all securities and derivatives transactions, including records of all funds and assets transferred into and out of bank and brokerage accounts relating to these transactions;
 - (ii) records that identify: the beneficial owner and controller, and for each transaction, the account holder; the amount purchased or sold; the time of the transaction; the price of the transaction; and the individual and the bank or broker and brokerage house that handled the transaction; and
 - (iii) information identifying persons who beneficially own or control non-natural Persons organized in the jurisdiction of the Requested Authority;
 - c) In accordance with Article 6, taking or compelling a Person's statement, or, where permissible, testimony under oath, regarding the matters set forth in the request for assistance.
- (3) Assistance may not be denied based on the fact that the type of conduct under investigation would not be a violation of the Securities and Derivatives Laws of the Requested Authority.

Article 5: Requests for Assistance

- (1) Requests for assistance will be made in writing, in such form as may be agreed by the Authorities from time to time and will be addressed to the Requested Authority's contact persons as prescribed in Article 13.
- (2) Requests for assistance will include the following:
 - a) a description of the facts underlying the investigation that are the subject of the request, and the purpose for which the assistance is sought;
 - b) a description of the assistance sought by the Requesting Authority and why the information sought will be of assistance;
 - c) any information known to, or in the possession of, the Requesting Authority that might assist the Requested Authority in identifying either the Persons believed to possess the information or documents sought or the places where such information may be obtained;

- d) an indication of any special precautions that should be taken in collecting the information due to investigatory considerations, including the sensitivity of the information; and
 - e) the Securities and Derivatives Laws of the Requesting Authority that may have been violated and that relate to the subject matter of the request.
- (3) In urgent circumstances, requests for assistance may be effected by email or facsimile, provided such communication is confirmed through an original, signed document. A scanned copy of the signed original will be considered sufficient to meet this requirement.

Article 6: Execution of Requests for Assistance

- (1) Subject to the Laws and Regulations of the Requested Authority, information and documents held in the files of the Requested Authority may be provided to the Requesting Authority upon request, to the extent such information and documents are relevant to the investigation or matter for which the request is being made.
- (2) Upon request, the Requested Authority will require the production of documents identified in Article 4 (2) (b) from: (i) any Person designated by the Requesting Authority, or (ii) any other Person who may possess the requested information or documents. Upon request, the Requested Authority will obtain other information relevant to the request.
- (3) Upon request, the Requested Authority will, subject to the Laws and Regulations applicable within the jurisdiction of the Requested Authority, seek responses to questions and/or a statement (or where permissible, testimony under oath) from any Person involved, directly or indirectly, in the activities that are the subject matter of the request for assistance or who is in possession of information that may assist in the execution of the request.
- (4) Unless otherwise arranged by the Authorities, information and documents requested under this MoU will be gathered in accordance with the procedures applicable in the jurisdiction of the Requested Authority and by persons designated by the Requested Authority. Where permissible under the Laws and Regulations of the jurisdiction of the Requested Authority and agreed to by the Authorities, a representative of the Requesting Authority may be present at the taking of statements and testimony and may provide, to a designated representative of the Requested Authority, specific questions to be asked to any witness, on the basis that information obtained in such manner shall be subject to applicable safeguards equivalent to those which apply in the jurisdiction of the Requested Authority.
- (5) In urgent circumstances, the response to requests for assistance may be effected by email or facsimile, provided such communication is confirmed through an original, signed document. A scanned copy of the signed original will be considered sufficient to meet this requirement.

Article 7: Permissible Uses of Information

- (1) The Requesting Authority may use non-public information and non-public documents furnished in response to a request for assistance under this MoU solely for:
 - a) the purposes approved in writing by the Requested Authority, including enforcing and securing compliance with the Securities and Derivatives Laws related to the request; and
 - b) with the prior written consent of the Requested Authority, a purpose associated with the original request for assistance, including conducting a civil or administrative enforcement proceeding, assisting in a self-regulatory organization's surveillance or enforcement activities (insofar as it is involved in the supervision of trading or conduct that is the subject of the request), assisting in a criminal prosecution, or conducting any investigation for any general charge applicable to the violation of the provision specified in the request where such general charge pertains to a violation of the Laws and Regulations administered by the Requesting Authority. This use may include enforcement proceedings which are public.
- (2) If a Requesting Authority intends to use information furnished under this MoU for any purpose other than those stated in Article 7 (1), it must obtain the prior consent of the Requested Authority.

Article 8: Confidentiality

- (1) Each Authority will keep confidential requests made under this MoU, the contents of such requests, and any matters arising under this MoU, including consultations between or among the Authorities, and unsolicited assistance. After consultation with the Requesting Authority, the Requested Authority may disclose the fact that the Requesting Authority has made the request if such disclosure is required to carry out the request.
- (2) The Requesting Authority will not disclose non-public documents and information received under this MoU, except as contemplated by Articles 7 (1) or 7 (2) or as authorised by law. Where a legally enforceable demand is made for such information, the Requesting Authority will immediately notify and consult with the Requested Authority prior to providing any response to the demand, and will assert such appropriate legal exemptions or privileges with respect to such information as may be available. The Requesting Authority will use its best efforts to protect the confidentiality of non-public documents and information received under this MoU.
- (3) Prior to providing information to a self-regulatory organization in accordance with Article 7 (1) (b), the Requesting Authority will ensure that the self-regulatory organization is able and will comply on an ongoing basis with the confidentiality provisions set forth in Articles 8 (1) and 8 (2) of this MoU, and that the information will be used only in accordance with Article 7 (1) of this MoU, and will not be used for competitive advantage.

Article 9: Consultation Regarding Mutual Assistance and the Exchange of Information

- (1) The Authorities will consult periodically with each other regarding this MoU and about matters of common concern with a view to improving its operation and resolving any issues that may arise.
- (2) The Authorities will consult with one another in matters relating to specific requests made pursuant to this MoU (among other things) where a request may be denied, or if it appears that responding to a request will involve substantial cost or resources.
- (3) The Authorities will define the terms herein in accordance with the relevant laws of the jurisdiction of the Requesting Authority unless such definition would require the Requested Authority to exceed its legal authority or otherwise be prohibited by the laws applicable in the jurisdiction of the Requested Authority. In such cases, the Authorities will consult each other.
- (4) The Authorities may consult if it appears that responding to a request will involve a substantial cost or expenditure of resources.

Article 10: Unsolicited Assistance

Each Authority may without prior request, provide the other Authority with any information that it considers is likely to be of assistance to the other Authority for the purpose of enforcing, and securing compliance with the Securities and Derivatives Laws applicable in the jurisdiction of the other Authority.

Article 11: Entry into Force

This MoU comes into operation on the date of its execution by the duly authorised representatives of the Authorities. Where the Authorities do not sign on the same date, the MOU becomes operational on the date of execution by the last Authority to sign it.

Article 12: Termination

- (1) Either Authority may terminate this MoU at any time by giving at least 30 days' prior written notice (Notice Period) to the other Authority.
- (2) In the event that an Authority decides to terminate this MoU, cooperation and assistance in accordance with this MoU will continue until the expiration of the Notice Period
- (3) In the event of the termination of the MoU, information obtained under this MoU in confidence and is not otherwise public will continue to be treated as confidential in the manner prescribed under Article 8.

Article 13: Contact Persons

All communications between the Authorities should be between the principal points of contact as set out in Annexure A unless otherwise agreed. Annexure A may however be amended by written notice from either Authority without the need for revising this MoU.

Signed in the city of Regina, in the Province of Saskatchewan, Canada, this 24th day of September, 2020; and


Signed in the city of Mumbai, in the State of Maharashtra, India, this 14th day of October, 2020.

in 3 originals in each English and Hindi, each being equally authentic. However, in case of discrepancy, the English version will prevail.

EXECUTED BY THE AUTHORITIES:



For FCAA



Dated September 24, 2020

For SEBI



Dated October 14, 2020

ANNEXURE A: PRINCIPAL CONTACT PERSONS



For FCAA

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