MoU concerning consultation, cooperation and the exchange of information related to

[redacted]

i) "EU competent authority": means any authority appointed in an EU or an EEA Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds.[1]

j) "Governmental Entity" means the Hong Kong Financial Services and the Treasury Bureau, the Hong Kong Monetary Authority, and the Gibraltar Ministry for Financial Services.

k) "Laws and Regulations" means the AIFMD and its implementing measures in Gibraltar and [redacted]

l) "Local Authority" means the Authority in whose jurisdiction a Covered Entity operates.

m) [redacted] Funds in accordance with the AIFMD or in accordance with the Hong Kong Securities and Futures Ordinance.

n) "Operate on a cross-border basis" means the following situations: when a) EU Managers [redacted]

2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws. This MoU 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 MoU.

3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established [redacted]

4) This MoU complements, but does not alter the terms and conditions of the IOSCO MMoU, to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning [redacted]

5) The Authorities will, within the framework of this MoU, use reasonable endeavours to provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:

   a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;

   b) Where a request for assistance is not made in accordance with the terms of the MoU;

   c) 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 punitive sanctions on the same charges by the competent authorities of the jurisdiction of the Requested Authority; or

[redacted]

2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:

a) The initial application of a Covered Entity for authorization, registration or exemption from registration in another jurisdiction;

b) The on-going oversight of a Covered Entity; or

c) [redacted]

examination reports, findings, or information drawn from such reports regarding [redacted]

Securities and Futures Commission, any inspection findings formally communicated to the Covered Entity in writing and any other material deficiencies identified in an inspection.

[redacted]

Article 6. Cooperation on enforcement

[redacted]

1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the Laws and Regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets

[redacted]

2) This MoU is intended to complement, but should not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Article 9. Special rules on onward sharing of information [redacted]

1) Article 8.4 does not apply in all cases where the Gibraltar Financial Services Commission is [redacted] required to share information with any other EU competent authority as defined in Article 1(d), the ESRB and ESMA under the AIFMD. In particular, Article 8 does not apply in the following circumstances:

   a. In accordance with Article 25(2) of the AIFMD, the Gibraltar Financial Services [redacted] authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU.

[redacted]