

ANNEX 9-C
FINANCIAL SERVICES

ARTICLE 1: SCOPE AND DEFINITIONS

1. This Annex shall apply to measures by the Parties affecting trade in financial services.¹
2. For the purposes of this Annex:
 - a “**financial service**” is any service of a financial nature offered by a financial service supplier of a Party. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance). Financial services include the following activities:
 - (a) *Insurance and insurance-related services*
 - (i) direct insurance (including co-insurance):
 - (A) life;
 - (B) non-life;
 - (ii) reinsurance and retrocession;
 - (iii) insurance intermediation, such as brokerage and agency; and
 - (iv) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;
 - (b) *Banking and other financial services (excluding insurance)*
 - (i) acceptance of deposits and other repayable funds from the public;
 - (ii) lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transactions;
 - (iii) financial leasing;
 - (iv) all payment and money transmission services, including credit, charge and debit cards, travellers check and bankers drafts;
 - (v) guarantees and commitments;

¹ “**trade in financial services**” shall be understood in accordance with the definition of “trade in services” as contained in Article 9.2 of Chapter 9 (Trade in Services).

- (vi) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:
 - (A) money market instruments (including checks, bills, certificates of deposits);
 - (B) foreign exchange;
 - (C) derivative products including, but not limited to, futures and options;
 - (D) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;
 - (E) transferable securities;
 - (F) other negotiable instruments and financial assets, including bullion;
- (vii) participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;
- (viii) money broking;
- (ix) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depositary and trust services;
- (x) settlement and clearing services for financial assets, including securities, derivative products and other negotiable instruments;
- (xi) provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;
- (xii) advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (i) through (xi), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

a **financial service supplier** means any natural or juridical person of a Party wishing to supply or supplying financial services but the term “financial service supplier” does not include a public entity.

public entity means:

- (a) a government, a central bank or a monetary authority, of a Party, or an entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or
- (b) a private entity, performing functions normally performed by a central bank or monetary authority, when exercising those functions.

services supplied in the exercise of governmental authority means the following:

- (a) activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies;
- (b) activities forming part of a statutory system of social security or public retirement plans; and
- (c) other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the Government.

For the purposes of the definition of "services" as contained in Article 9.2 of Chapter 9 (Trade in Services), if a Party allows any of the activities referred to in subparagraphs (b) or (c) of this paragraph to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier, “services” shall include such activities.

The definition of "**a service supplied in exercise of governmental authority**" as contained in Article 9.2 of Chapter 9 (Trade in Services) shall not apply to services covered by this Annex.

self-regulatory organization means any non-governmental body, including any securities or futures exchange or market, clearing agency or other organization or association that exercises its own or delegated regulatory or supervisory authority over financial service suppliers.

ARTICLE 2: PAYMENT AND CLEARING SYSTEMS

Each Party shall grant, on a national treatment basis, to financial service suppliers of the other Party established in its territory access to payment and clearing systems operated by public entities and to official funding and refinancing facilities available in the normal course of ordinary business. This paragraph is not intended to confer access to the Party's lender of last resort facilities.

ARTICLE 3: SELF-REGULATORY ORGANIZATIONS

When membership or participation in, or access to, a self-regulatory body, securities or futures exchange or market, clearing agency, or any other organisation or association, is required by a Party in order for financial service suppliers of the other Party to supply financial services on an equal basis with financial service suppliers of the Party; or when the Party provides directly or indirectly such entities, privileges or advantages in supplying financial services, the Party shall ensure that such entities accord national treatment to financial service suppliers of the other Party resident in its territory.

ARTICLE 4: TRANSPARENCY

1. Each Party shall make its best efforts to promote regulatory transparency in financial services taking into account:

- (a) the work undertaken by the Parties in the GATS and in other fora relating to trade in financial services; and
- (b) the importance of regulatory transparency, of identifiable policy objectives and of clear and consistently applied regulatory processes.

2. The competent authorities of each Party shall make publicly available the domestic requirements and applicable procedures for completing applications relating to the supply of financial services.

ARTICLE 5: PRUDENTIAL MEASURES

1. Notwithstanding any other provisions of Chapter 9 (Trade in Services), a Party shall not be prevented from adopting or maintaining measures for prudential reasons, including for:

- (a) the protection of investors, depositors, policy-holders, persons to whom a fiduciary duty is owed by a financial service supplier; or
- (b) ensuring the integrity and stability of that Party's financial system.

Where such measures do not conform with the provisions of Chapter 9 (Trade in Services), they shall not be used as a means of avoiding that Party's commitments or obligations under Chapter 9 (Trade in Services).

ARTICLE 6: TREATMENT OF INFORMATION

Nothing in Chapter 9 (Trade in Services) or in this Annex shall be construed to require a Party to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

ARTICLE 7: RECOGNITION OF PRUDENTIAL MEASURES

1. Where a Party recognises, by agreement or arrangement, prudential measures of a non-party in determining how the Party's measures relating to financial services shall be applied, that Party shall afford adequate opportunity to the other Party to negotiate its accession to such an agreement or arrangement, or to negotiate a comparable agreement or arrangement with it, under circumstances in which there would be equivalent regulation, oversight, implementation of such regulation and, if appropriate, procedures concerning the sharing of information between the parties to the agreement or arrangement.
2. Where a Party accords such recognition autonomously, it shall afford adequate opportunity for another Party to demonstrate that such circumstances exist.

ARTICLE 8: TRANSFERS OF INFORMATION AND PROCESSING OF INFORMATION

1. No Party shall take measures that prevent transfers of information into or out of the Party's territory or the processing of financial information, including transfers of data by electronic means, or that, subject to importation rules consistent with international agreements to which both Parties are parties, prevent transfers of equipment, where such transfers of information, processing of financial information or transfers of equipment are necessary for the conduct of the ordinary business of a financial service supplier of another Party.
2. Nothing in this Article restricts the right of a Party to protect personal data, personal privacy and the confidentiality of individual records and accounts, so long as such right is not used to circumvent the provisions of this Agreement.