

ANNEX 6.A
FINANCIAL SERVICES

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Article 1
Scope and Definitions

1. This Annex shall apply to measures by the Parties affecting trade in financial services.¹
2. For the purpose of this Annex:

- (a) “**financial service**” means 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:

Insurance and insurance-related services

- (i) direct insurance (including co-insurance):
 - (aa) life;
 - (bb) non-life;
- (ii) reinsurance and retrocession;
- (iii) insurance intermediation, such as brokerage and agency;
- (iv) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;

Banking and other financial services (excluding insurance)

- (v) acceptance of deposits and other repayable funds from the public;
- (vi) lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;
- (vii) financial leasing;
- (viii) all payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;
- (ix) guarantees and commitments;

¹ “**Trade in financial services**” shall be understood in accordance with the definition contained in paragraph 2 of Article I of the GATS.

- (x) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:
 - (aa) money market instruments (including cheques, bills, certificates of deposits);
 - (bb) foreign exchange;
 - (cc) derivative products including, but not limited to, futures and options;
 - (dd) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;
 - (ee) transferable securities; and
 - (ff) other negotiable instruments and financial assets, including bullion;
 - (xi) 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;
 - (xii) money broking;
 - (xiii) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depositary and trust services;
 - (xiv) settlement and clearing services for financial assets, including securities, derivative products and other negotiable instruments;
 - (xv) provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and
 - (xvi) advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (v) through (xv), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.
- (b) **“financial service supplier”** means any natural or juridical person of a Party seeking to supply or supplying financial services but the term “financial service supplier” does not include a public entity.
- (c) **“public entity”** means:

- (i) 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
 - (ii) a private entity, performing functions normally performed by a central bank or monetary authority, when exercising those functions.
- (d) For the purpose of subparagraph 3(b) of Article I of the GATS, “**services supplied in the exercise of governmental authority**” means the following:
- (i) measures taken or activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary and related credit policies or exchange rate policies;
 - (ii) activities forming part of a statutory system of social security or public retirement plans; and
 - (iii) other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the Government.
- (e) For the purpose of Article I:3(b) of the GATS, if a Party allows any of the activities referred to in subparagraphs (d)(ii) or (d)(iii) 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.
- (f) Article I:3(c) of the GATS shall not apply to services covered by this Annex.

Article 2

Transparency

1. Each Party shall promote regulatory transparency in financial services taking into account to the extent practicable:
 - (a) the importance of regulatory transparency, of identifiable policy objectives and of clear and consistently applied regulatory processes; and
 - (b) any consultations between the Parties.
2. The competent authorities of each Party shall make available to interested persons domestic requirements and procedures for completing applications relating to the supply of financial services.

3. The period of time normally required to reach a decision concerning an application for a licence shall, at the choice of the competent authorities, either:
 - (a) be made available to the applicant upon request;
 - (b) be made publicly available; or
 - (c) be made available by a combination of subparagraphs (a) and (b).

Article 3
Expeditious Application Procedures

1. The competent authorities of each Party shall process applications related to the supply of financial services submitted by service suppliers of other Parties expeditiously.
2. If the competent authorities of a Party require additional information from the applicant in order to process its application, they shall notify the applicant without undue delay.
3. Upon request by the applicant, the competent authorities of a Party shall provide, without undue delay, information concerning the status of its application.
4. The competent authorities of each Party shall notify the applicant of the outcome of its application promptly after a decision has been taken.
5. A Party's competent authority shall take a decision on a complete application² related to the supply of a financial service within 180 days³ and, if the decision is to authorise the supply of the financial service and once all requirements are met, issue the license without undue delay.

Article 4
Domestic Regulation

1. Notwithstanding Chapter 6 (Trade in Services) of the Agreement, no Party shall be prevented from adopting or maintaining reasonable measures for prudential reasons, including for:
 - (a) the protection of investors, depositors, policy-holders, policy-claimants, persons to whom a fiduciary duty is owed by a financial service supplier;
or

² An application shall be considered complete when the relevant proceedings to gather all necessary information have been concluded.

³ Where it is not practicable for such a decision to be made within 180 days, the competent authority shall notify the applicant without undue delay and shall endeavour to make the decision within a reasonable period of time thereafter.

- (b) ensuring the integrity and stability of that Party's financial system.

Where such measures do not conform with Chapter 6 (Trade in Services) of the Agreement, they shall not be used as a means of avoiding that Party's commitments or obligations under Chapter 6 (Trade in Services) of the Agreement.

- 2. Nothing in Chapter 6 (Trade in Services) of the Agreement 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.
