

CHAPTER 9 FINANCIAL SERVICES

Article 9.1 Definitions

For the purposes of this Chapter:

“commercial presence” means any type of business or professional establishment, including through:

- (a) the constitution, acquisition or maintenance of a juridical person; or
- (b) the creation or maintenance of a branch or representative office,

within the territory of a Party for the purpose of supplying a financial service;¹

“electronic payments” means an acceptable transfer of monetary value from a payer to a payee through electronic means;

“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, 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; and
 - (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;

¹ For greater certainty, commercial presence may be established for the purpose of supplying services other than financial services, provided that at least one financial service is supplied through such commercial presence.

- (iii) financial leasing;
- (iv) all payment and money transmission services, including credit, charge and debit cards, travellers' cheques, and bankers' drafts;
- (v) guarantees and commitments;
- (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 cheques, bills or certificates of deposits);
 - (B) foreign exchange;
 - (C) derivative products including futures and options;
 - (D) exchange rate and interest rate instruments, including products such as swaps and forward rate agreements;
 - (E) transferable securities; or
 - (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, depository, 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; and
- (xii) advisory, intermediation and other auxiliary financial services on all the activities listed at subparagraphs (i) through (xi), including credit reference and analysis, investment and portfolio research and advice, and advice on acquisitions and on corporate restructuring and strategy;

“financial service supplier” means any person of a Party seeking to supply or supplying financial services, but does not include a public entity;²

“juridical person of a Party” means a juridical person which is either:

- (a) constituted or otherwise organised under the law of that Party, and is engaged in substantive business operations in the territory of that Party; or
- (b) in the case of the supply of a service through commercial presence, owned or controlled by:
 - (i) natural persons of that Party; or
 - (ii) juridical persons of that Party identified under subparagraph (a);

a juridical person is:

- (a) **“owned”** by persons of a Party if more than 50 per cent of the equity interest in it is beneficially owned by persons of that Party;
- (b) **“controlled”** by persons of a Party if such persons have the power to name a majority of its directors or otherwise to legally direct its actions;

“natural person of a Party” means a national as defined in Article 1.4 (General Definitions – Initial Provisions and General Definitions);

“new financial service” means a financial service that is not supplied in the territory of a Party but which is supplied and regulated in the territory of the other Party. This may include services related to existing and new financial products, or the manner in which the financial product is delivered;

“public entity” means:

- (a) a government, a central bank or a monetary authority of a Party or any 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;

“self-regulatory organisation” means a non-governmental body, including any securities or futures exchange or market, clearing or payment settlement agency, other organisation or association, that exercises its own or delegated regulatory or

² Where the financial service is not supplied directly by a juridical person but through other forms of commercial presence such as a branch or a representative office, the financial service supplier (i.e. the juridical person) shall, nonetheless, through such presence be accorded the treatment provided for financial service suppliers under this Chapter. Such treatment shall be extended to the presence through which the financial service is supplied and need not be extended to any other parts of the financial service supplier located outside the territory where the financial service is supplied.

supervisory authority over financial service suppliers which it receives through legislation or delegation from central, regional or governments or authorities;³

“**subsector**” of financial services means with reference to a specific commitment, one or more, or all, subsectors of financial services, as specified in the respective Schedules of the Parties in Annex 9A (Schedules of Specific Commitments on Financial Services); and

“**trade in financial services**” means the supply of a financial service:

- (a) from the territory of a Party into the territory of the other Party;
- (b) in the territory of a Party to a person of the other Party;
- (c) by a financial service supplier of a Party, through commercial presence in the territory of the other Party; or
- (d) by a financial service supplier of a Party, through presence of natural persons of that Party in the territory of the other Party.

Article 9.2

Scope

1. This Chapter shall apply to measures adopted or maintained by a Party affecting trade in financial services.
2. This Chapter shall not apply to measures relating to:
 - (a) activities or services forming part of a public retirement plan or statutory system of social security; or
 - (b) activities or services conducted by a public entity for the account or with the guarantee or using the financial resources of the Party.except that this Chapter shall apply to the extent that a Party allows any of the activities or services referred to in subparagraph (a) or (b) to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier.
3. This Chapter shall not apply to measures relating to:
 - (a) government procurement of financial services; or
 - (b) subsidies or grants provided by a Party with respect to the supply of financial services, including government-supported loans, guarantees and insurance.
4. This Chapter does not impose any obligation on a Party with respect to a natural person of the other Party who seeks access to its employment market or who is

³ For greater certainty, a Party may require a self-regulatory organisation to be recognised under that Party's law.

employed on a permanent basis in its territory, and does not confer any right on that natural person of the other Party with respect to that access or employment. For greater certainty, this Chapter does not apply to measures regarding citizenship, nationality or residence on a permanent basis.

Article 9.3

Specific Exceptions

1. Nothing in this Chapter, Chapter 8 (Trade in Services), Chapter 11 (Telecommunications) or Chapter 12 (Digital Trade) shall apply to measures taken or activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary policies and related credit policies, or exchange rate policies.
2. Nothing in this Agreement shall be construed to require a Party to disclose information relating to the affairs and accounts of individual consumers, financial service suppliers or any confidential or proprietary information in the possession of public entities.

Article 9.4

Prudential Exception

1. Notwithstanding any other provisions of this Agreement, a Party shall not be prevented from adopting or maintaining measures for prudential reasons,⁴ including for:
 - (a) the protection of investors, depositors, policyholders, or persons to whom a financial service supplier owes a fiduciary duty;
 - (b) the maintenance of the safety, soundness, integrity, or financial responsibility of a financial service supplier; or
 - (c) ensuring the integrity and stability of a Party's financial system.
2. Where such measures do not conform with the provisions of this Agreement, they shall not be used as a means of avoiding the Party's commitments or obligations under this Agreement.

Article 9.5

National Treatment

1. Each Party shall, in the subsectors of financial services inscribed in its Schedule in Annex 9A (Schedules of Specific Commitments on Financial Services) and subject to any conditions and qualifications set out therein, accord to financial

⁴ The Parties understand that this includes the maintenance of the safety and financial and operational integrity, of payment, settlement and clearing systems.

services and financial service suppliers of the other Party,⁵ in respect of all measures affecting the supply of financial services, treatment no less favourable than that it accords to its own like financial services and financial service suppliers.⁶⁷

2. A Party may meet the requirement under paragraph 1 by according to financial services and financial service suppliers of the other Party, either formally identical treatment or formally different treatment to that it accords to its own like financial services and financial service suppliers.
3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of financial services or financial service suppliers of the Party compared to like financial services or financial service suppliers of the other Party.

Article 9.6

Market Access

1. With respect to market access through the modes of supply identified in the definition of “trade in financial services” in Article 9.1 (Definitions), each Party shall accord financial services and financial service suppliers of the other Party⁸ treatment no less favourable than that provided for under the terms, limitations, and conditions agreed and specified in its Schedule in Annex 9A (Schedules of Specific Commitments on Financial Services).⁹
2. In the subsectors of financial services where market-access commitments are undertaken,¹⁰ the measures which a Party shall not maintain or adopt either on the basis of a regional subdivision or on the basis of its entire territory, unless

⁵ Financial service suppliers of the other Party that supply or seek to supply a financial service through one of the modes of supply identified in subparagraphs (a), (b) or (d) of the definition of “trade in financial services” in Article 9.1 (Definitions) must also be engaged in the business of supplying a financial service in the territory of that other Party in order to be accorded the treatment provided for under this Article.

⁶ Specific commitments assumed under this Article shall not be construed to require any Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant financial services or financial service suppliers.

⁷ And for greater certainty, commitments may relate to the whole or part of a subsector, as specified by a Party in its Schedule in Annex 9A (Schedules of Specific Commitments on Financial Services).

⁸ Financial service suppliers of the other Party that supply or seek to supply a financial service through one of the modes of supply identified in subparagraphs (a), (b) or (d) of the definition of “trade in financial services” in Article 9.1 (Definitions) must also be engaged in the business of supplying a financial service in the territory of that other Party in order to be accorded the treatment provided for under this Article.

⁹ If a Party undertakes a market-access commitment in relation to the supply of a financial service through the mode of supply referred to in subparagraph (a) of the definition of “trade in financial services” in Article 9.1 (Definitions) and if the cross-border movement of capital is an essential part of the financial service itself, that Party is thereby committed to allow such movement of capital. If a Party undertakes a market-access commitment in relation to the supply of a financial service through the mode of supply referred to in subparagraph (c) of the definition of “trade in financial services” in Article 9.1 (Definitions), it is thereby committed to allow related transfers of capital into its territory.

¹⁰ For greater certainty, commitments may relate to the whole or part of a subsector, as specified by a Party in its Schedule in Annex 9A (Schedules of Specific Commitments on Financial Services).

otherwise specified in its Schedule in Annex 9A (Schedules of Specific Commitments on Financial Services), are defined as:

- (a) limitations on the number of financial service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;
 - b) limitations on the total value of financial service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
 - c) limitations on the total number of financial service operations or on the total quantity of financial service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;¹¹
 - d) limitations on the total number of natural persons that may be employed in a particular financial service sub-sector or that a financial service supplier may employ and who are necessary for, and directly related to, the supply of a specific financial service in the form of numerical quotas or the requirement of an economic needs test;
 - e) measures which restrict or require specific types of legal entity or joint venture through which a financial service supplier may supply a financial service; and
 - f) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.
3. If a Party undertakes a market-access commitment in relation to the supply of a financial service through a mode of supply referred to in subparagraphs (a), (b) or (d) of the definition of “trade in financial services” in Article 9.1 (Definitions), it shall not require a financial service supplier of the other Party to establish or maintain a representative office, a branch, or any form of juridical person, or to be resident in its territory as a condition for the supply of that financial service through the relevant mode of supply, unless otherwise specified in its Schedule in Annex 9A (Schedules of Specific Commitments on Financial Services).
4. For greater certainty, this Article does not prevent a Party from requiring a financial services supplier of the other Party to be authorised, regulated or supervised by the first Party, provided that this does not circumvent the Party’s obligation under paragraph 1 and is consistent with other provisions of this Chapter.

¹¹ This subparagraph does not cover measures of a Party which limit inputs for the supply of financial services.

Article 9.7
Additional Commitments

1. The Parties may negotiate commitments with respect to measures affecting trade in financial services, including those regarding qualifications, standards, or licensing matters, not subject to scheduling, under Article 9.5 (National Treatment) or Article 9.6 (Market Access).
2. A Party making additional commitments under paragraph 1 shall inscribe such commitments in its Schedule in Annex 9A (Schedules of Specific Commitments on Financial Services).

Article 9.8
Schedules of Specific Commitments

1. Each Party shall set out in its Schedule in Annex 9A (Schedules of Specific Commitments on Financial Services), the specific commitments it undertakes under Article 9.5 (National Treatment), Article 9.6 (Market Access), and Article 9.7 (Additional Commitments). With respect to subsectors of financial services where such commitments are undertaken, each Schedule in Annex 9A (Schedules of Specific Commitments on Financial Services) shall specify:
 - (a) terms, limitations, and conditions on market access;
 - (b) conditions and qualifications on national treatment;
 - (c) undertakings relating to additional commitments; and
 - (d) where appropriate, the time frame for implementation of such commitments.
2. Measures inconsistent with both Article 9.5 (National Treatment) and Article 9.6 (Market Access) shall be inscribed in the column relating to Article 9.6 (Market Access). In this case, the inscription shall be considered to provide a condition or qualification to Article 9.5 (National Treatment) as well.
3. For greater certainty, Schedules of Specific Commitments shall be annexed to this Chapter as Annex 9A and shall form an integral part thereof.

Article 9.9
Denial of Benefits

1. A Party may deny the benefits of this Chapter:
 - (a) to the supply of any financial service, if it establishes that the financial service is supplied from or in the territory of a non-Party; or
 - (b) to a financial service supplier that is a juridical person, if it establishes that it is not a financial service supplier of the other Party.

2. A Party may deny the benefits of this Chapter to a financial service supplier of the other Party, if the financial service supplier is a juridical person owned or controlled by person of a non-Party, and the denying Party adopts or maintains measures with respect to the non-Party or a person of the non-Party that prohibit transactions with the juridical person or that would be violated or circumvented if the benefits of this Chapter were accorded to the juridical person.

Article 9.10 Transparency

1. Chapter 24 (Good Regulatory Practice) and Chapter 25 (Transparency) do not apply to a measure covered by this Chapter.
2. The Parties recognise that transparent measures of general application governing the activities of financial service suppliers are important in facilitating their ability to gain access to and operate in each other's markets. Each Party commits to promote regulatory transparency in financial services.
3. Each Party shall:
 - (a) ensure that all measures of general application to which this Chapter applies are administered in a reasonable, objective, and impartial manner;
 - (b) ensure that all measures of general application to which this Chapter applies are promptly published or made available in such a manner as to enable an interested person and the other Party to become acquainted with them;
 - (c) to the extent possible, ensure advance publication of any measures of general application, to which this Chapter applies, that it proposes to adopt and provide an interested person and the other Party a reasonable opportunity to comment on these proposed measures;
 - (d) maintain or establish enquiry points and appropriate mechanisms to respond, within a reasonable period of time, to an inquiry or a request for information from an interested person regarding measures of general application to which this Chapter applies;
 - (e) allow, to the extent possible, a reasonable period of time between the final publication of a measure of general application, to which this Chapter applies, and the date when it enters into effect; and
 - (f) ensure that measures of general application adopted or maintained by a self-regulatory organisation of the Party, to which this Chapter applies, are promptly published or otherwise made available in a manner that enables interested persons to become acquainted with them.
4. If a Party adopts or maintains measures relating to authorisation for the supply of a financial service, the Party shall ensure that:

- (a) such measures are based on objective and transparent criteria;¹² and
 - (b) the procedures are impartial, not more burdensome than necessary to ensure the quality of the financial service and do not in themselves constitute a restriction on the supply of the financial service.
5. If a Party requires authorisation for the supply of a financial service, the financial regulatory authorities of the Party shall:
- (a) promptly publish¹³ the information necessary for financial service suppliers to comply with the requirements and procedures for obtaining, maintaining, amending and renewing such authorisation;
 - (b) to the extent practicable, not require an applicant to approach more than one financial regulatory authority for each application for authorisation. If a financial service is within the jurisdiction of multiple financial regulatory authorities, multiple applications for authorisation may be required;
 - (c) allow a reasonable period for the submission of an application;
 - (d) to the extent possible, accept applications in electronic format;
 - (e) accept copies of documents, that are authenticated in accordance with that Party's law, in place of original documents, unless the financial regulatory authorities require original documents to protect the integrity of the authorisation process;
 - (f) ensure that any authorisation fees¹⁴ charged by financial regulatory authorities are reasonable, transparent and do not in themselves restrict the supply of the relevant financial service. Each Party shall endeavour to accept the payment of those authorisation fees by electronic means;
 - (g) confirm in writing¹⁵ that an application has been received and, at the request of the applicant, provide without undue delay information concerning the status of the application;
 - (h) in the case of an application considered complete for processing under the Party's law, make a decision on the application within 180 days and notify the applicant of the decision without undue delay. An application shall not be considered complete until all relevant proceedings are conducted and all necessary information is received. Where it is not practicable for a decision to be made within 180 days, the financial regulatory authorities shall notify the applicant of this without undue

¹² Such criteria may include competence and the ability to supply a financial service, including to do so in a manner consistent with a Party's regulatory requirements. Financial regulatory authorities may assess the weight to be given to each criterion.

¹³ For the purposes of these disciplines, "publish" means to include in an official publication or on an official website.

¹⁴ For the purposes of this paragraph, authorisation fees do not include payment for auction, fees for tendering, or other non-discriminatory means of awarding concessions, or mandated contributions to universal services provision.

¹⁵ References to "in writing" include in an electronic format.

delay and shall endeavour to make the decision within a reasonable period of time thereafter;

- (i) in the case of an application considered incomplete under the Party's law, within a reasonable period of time, to the extent practicable:

- (i) inform the applicant that the application is incomplete;
 - (ii) at the request of the applicant, provide guidance on why the application is considered incomplete; and
 - (iii) provide the applicant with the opportunity¹⁶ to provide the additional information that is required to complete the application, and ensure that any deadlines for the additional information required are made clear to the applicant;

however, if none of the actions in subparagraphs (i) through (iii) is practicable, and the application is rejected due to incompleteness, ensure that the applicant is informed within a reasonable period of time;

- (j) if an application is rejected then, either upon the request of an unsuccessful applicant in writing, or upon their own initiative, to the extent practicable, inform the applicant of the reasons for denial of the application;
- (k) an applicant should not be prevented from submitting another revised application solely on the basis that an application had been previously rejected; and
- (l) ensure that authorisation, once granted, may enter into effect without undue delay, subject to the applicable terms and conditions.¹⁷

Article 9.11

Payments and Clearing

Under terms and conditions that accord national treatment, each Party shall grant to financial service suppliers of the other Party that supply or seek to supply a financial service through commercial presence in the Party's 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.¹⁸ This Article is not intended to confer access to the Party's lender of last resort facilities¹⁹.

¹⁶ Such opportunity does not require a financial regulatory authority to provide extensions of deadlines.

¹⁷ Financial regulatory authorities are not responsible for delays due to reasons outside their competence.

¹⁸ For greater certainty, this Article does not prevent a Party from requiring a financial services supplier to be authorised, regulated or supervised, provided that this does not circumvent the Party's obligation under this Article.

¹⁹ For greater certainty, a Party need not grant access under this Article to financial service suppliers of the other Party that supply or seek to supply a financial service through commercial presence in the Party's territory if such access or treatment is not granted to its own or like financial service suppliers.

Article 9.12

Performance of Back-Office Functions

1. Each Party recognises that the back-office functions of a financial service supplier that supplies or seeks to supply a financial service through commercial presence in its territory, which are performed by the head office or an affiliate of that financial service supplier in the territory of either Party, may be important to the effective management and efficient operation of that financial service supplier.
2. A Party may require a financial service supplier that supplies or seeks to supply a financial service through commercial presence in its territory to ensure compliance with any domestic requirements, including in relation to its core and critical functions, but recognises the importance of avoiding the imposition of arbitrary requirements on the performance of back-office functions.
3. To the extent practicable, and subject to paragraph 2, each Party shall permit the performance of such back-office functions as are referred to in paragraph 1 by such a head office or affiliate as is referred to in paragraph 1. For greater certainty, nothing in this Article prevents a Party from requiring a financial service supplier that supplies or seeks to supply a financial service through commercial presence in its territory to retain certain functions, including core and critical functions.

Article 9.13

Self-Regulatory Organisations

If a Party requires a financial service supplier²⁰ of the other Party to be a member of, participate in, or have access to, a self-regulatory organisation to supply a financial service in or into the territory of that Party, or grants a privilege or advantage when supplying a financial service through a self-regulatory organisation, then the requiring Party shall ensure that the self-regulatory organisation observes the obligations in Article 9.5 (National Treatment).

Article 9.14

Financial Services New to the Territory of a Party²¹

1. Each Party shall permit a financial service supplier of the other Party established and supplying a new financial service in the territory of the other Party to supply such new financial service through commercial presence in the territory of the first Party that the first Party would permit its own financial

²⁰ For greater certainty, this article does not prevent a Party from requiring a financial services supplier to be authorised, regulated or supervised, provided that this does not circumvent the Party's obligation under this Article.

²¹ The Parties understand that nothing in this Article prevents a financial service supplier of a Party from applying to the other Party to request that it authorises the supply of a financial service that is not supplied in the territory of either Party. That application shall be subject to the law of the Party to which the application is made and, for greater certainty, shall not be subject to this Article.

service suppliers to supply, in like situations, without adopting a law or modifying an existing law.²² Each Party may:

- (a) notwithstanding subparagraph 2(e) of Article 9.6 (Market Access), determine the institutional and juridical form through which the new financial service may be supplied;
 - (b) require authorisation, regulation or supervision for the supply of the service from the relevant regulator; and
 - (c) require the financial service supplier of the other Party to become authorised to do business and to be regulated or supervised by the relevant regulator under the law of the Party.
2. Where a Party requires authorisation to supply the new financial service, a decision by the relevant regulator as to whether to grant authorisation shall be made within a reasonable time.
3. To support innovation in financial services, the Parties shall endeavour to collaborate, and share knowledge, experiences and developments in financial services, to advance financial integrity, consumer protection, financial inclusion, competition and financial stability.

Article 9.15 Recognition

1. A Party may recognise prudential measures of the other Party or a non-Party, which may be based on relevant standards of any international standard setting body, in determining how the Party's measures affecting trade in financial services shall be applied. Such recognition may be:
- (a) accorded autonomously;
 - (b) achieved through harmonisation or other means; or
 - (c) based upon an agreement or arrangement with the other Party or the non-Party.
2. A Party that is a party to such an agreement or arrangement referred to in paragraph 1, whether future or existing, shall afford adequate opportunity to the other Party to negotiate its accession to such agreement or arrangements, or to negotiate comparable ones 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.

²² For greater certainty, a Party may issue a new regulation or other subordinate measure in permitting the supply of the new financial service.

3. Where a Party accords recognition autonomously it shall afford adequate opportunity to the other Party to demonstrate that such circumstances as referred to in paragraph 2 exist.

Article 9.16

Payments and Transfers

1. Except under the circumstances envisaged in Article 28.3 (Measures to Safeguard the Balance of Payments – General Provisions and Exceptions), a Party shall not apply restrictions on international transfers or payments for current transactions relating to its specific commitments referred to in paragraph 3.
2. Each Party shall permit international transfers or payments for current transactions relating to its specific commitments referred to in paragraph 3 to be made in a freely convertible currency at the market rate of exchange prevailing at the time of transfer.
3. This Article shall apply to the extent that trade in financial services as defined in sub-paragraphs (a), (b) and (d) of the definition of “trade in financial services” in Article 9.1 (Definitions) is subject to commitments pursuant to Article 9.5 (National Treatment) and Article 9.6 (Market Access).
4. Nothing in this Chapter shall affect the rights and obligations of a Party as a member of the International Monetary Fund (“IMF”) under the IMF Articles of Agreement, as may be amended, including the use of exchange actions which are in conformity with the IMF Articles of Agreement, as may be amended, provided that the Party shall not impose restrictions on any capital transaction inconsistently with its specific commitments under this Chapter regarding such transactions, except under Article 28.3 (Measures to Safeguard the Balance of Payments – General Provisions and Exceptions) or on request of the IMF.

Article 9.17

Institutional Arrangements

1. The Subcommittee on Trade in Services shall be responsible for the effective implementation and operation of this Chapter.
2. The authorities responsible for financial services for each Party are:
 - (a) for India, the Department of Commerce; and
 - (b) for the United Kingdom, His Majesty’s Treasury or its successor.
3. A Party shall promptly notify the other Party of any change of its contact point.

Article 9.18 Consultation

1. A Party may request consultations with the other Party regarding any matter arising under this Agreement that affects financial services. The other Party shall consider the request.
2. Consultations under this Article shall include the relevant representatives of the responsible authorities specified in Article 9.17 (Institutional Arrangements).
3. The consulting Parties shall report the results of their consultations to the Subcommittee on Trade in Services.
4. For greater certainty, nothing in this Article shall be construed to require a Party to derogate from its law regarding sharing of information between financial regulatory authorities, or the requirements of an agreement or arrangement between financial regulatory authorities of the Parties, or to require a financial regulatory authority to take any action that would interfere with specific regulatory, supervisory, administrative or enforcement matters.

Article 9.19 Financial Services Dispute Settlement

1. Chapter 29 (Dispute Settlement) applies, as modified by this Article, to the settlement of disputes arising under this Chapter.
2. The Parties shall ensure for disputes arising under this Chapter that in addition to the requirements set out in Article 29.10 (Qualifications of Panellists - Dispute Settlement):
 - (a) a majority of panellists shall have the necessary expertise relevant to the financial services under dispute, and such expertise may include the regulation of financial service suppliers; and
 - (b) the appointed panellist acting as chair shall, where possible, have prior experience as counsel or arbitrator in dispute settlement proceedings.
3. Further to paragraph 5 of Article 29.15 (Compensation and Suspension of Concessions or other Obligations – Dispute Settlement), in considering what concessions or other obligations to suspend for the purposes of that Article, the complaining Party shall apply the following principles. In cases where the panel has found an inconsistency with the Agreement which affects:²³
 - (a) the financial services sector and any other sector, the complaining Party may suspend obligations in the financial services sector that have an effect that does not exceed a level equivalent to the level of nullification or impairment in the complaining Party's financial services sector; or

²³ For the avoidance of doubt, in cases where the Panel has found an inconsistency with the Agreement which affects only the financial services sector, the principles in paragraphs 5 and 6 of Article 29.15 (Compensation and Suspension of Concessions or other Obligations – Dispute Settlement) shall apply.

- (b) notwithstanding paragraph 5(b) of Article 29.15 (Compensation and Suspension of Concessions or other Obligations – Dispute Settlement), only a sector other than the financial services sector, the complaining Party shall not suspend obligations in the financial services sector.

Article 9.20

Cooperation and Exchange of Views on Financial Services

1. The Parties shall strengthen cooperation efforts in the financial services sector. As part of these efforts, the Parties shall exchange views through appropriate forums on issues relating to financial services at intervals as agreed by the Parties. The forums may include existing forums, or such forums as may be agreed by the Parties, and shall be composed of relevant entities to be decided by the Parties, which shall include, where appropriate, the regulatory and supervisory authorities of the Parties.
2. The Parties recognise that these efforts support objectives which include the following:
 - (a) enhancing trade in financial services between the Parties;
 - (b) strengthening financial systems and promoting financial stability;
 - (c) improving market integrity, mitigating unnecessary market fragmentation and promoting fair and competitive markets;
 - (d) promoting robust and efficient financial service suppliers, markets, and infrastructure;
 - (e) protecting consumers, investors, depositors, policy holders and persons to whom a fiduciary or statutory duty is owed by a financial service supplier; and
 - (f) providing a transparent and conducive environment for financial service suppliers.
3. In addition to paragraph 3 of Article 9.14 (Financial Services New to the Territory of a Party), the Parties shall endeavour to collaborate, share knowledge and experiences and to support development in financial services and technology, in areas such as, but not limited to, FinTech and RegTech²⁴ and other areas of new and emerging technology. In doing so the Parties shall advance financial integrity, consumer protection, financial inclusion, financial stability, operational resilience, sustainability and facilitate cross-border development of new financial services.
4. The Parties shall endeavour to share best practices to promote diversity²⁵ in financial services and recognise the importance of building a diverse, financial

²⁴ For the purpose of this paragraph, the Parties shall treat FinTech and RegTech as referring to activities which involve the improved use of technology across financial services.

²⁵ Diversity includes, but is not limited to, gender, ethnicity, and professional, educational and socio-economic background.

services industry, and the positive impact that diversity has on balanced decision-making, consumers, workplace culture, investment, and competitive markets.

5. The Parties recognise the importance of international cooperation to facilitate the inclusion of environmental, social, and governance considerations in decision-making by financial services suppliers.

Article 9.21 **Credit Rating of Financial Services Suppliers**

1. In relation to the provision of a financial service in the territory of a Party:
 - (a) by a financial service supplier of the other Party, which is already authorised by the Party to supply financial services through commercial presence in its territory, and
 - (b) where the provision of financial services is wholly or partially contingent on an assessment by the Party of the credit rating of that financial service supplier or the sovereign credit rating of the other Party,

the host Party shall, to the extent practicable, undertake its assessment in a reasonable manner.²⁶

Article 9.22 **Electronic Payments**

1. Recognising the rapid growth of electronic payments, including those provided by non-banks and FinTech entities, the Parties shall, while maintaining resilience, endeavour to work together to support the development of an efficient, safe and secure environment for cross-border electronic payments, including through:
 - (a) encouraging mutual cooperation and sharing information about each other's experience, technical expertise and innovations in the area of digital payment infrastructure and products;
 - (b) encouraging the adoption and use of internationally accepted standards;
 - (c) promoting interoperability and interlinkages of electronic payment infrastructures including payment systems; and
 - (d) encouraging innovation and competition in electronic payments services.

²⁶ For greater certainty, this paragraph does not apply in relation to credit rating assessments undertaken by financial service suppliers.

2. To this end, each Party shall, while maintaining resilience, endeavour to:
 - (a) for the electronic payment systems solely operated by a Party, publicly disclose objective and risk-based system rules and criteria for operation and participation which permit fair and open access;
 - (b) encourage payment service providers to safely and securely make available new technologies and standards for their financial products and services, and where possible, to facilitate greater interoperability, innovation and competition in electronic payments; and
 - (c) facilitate innovation and competition and the introduction of new electronic payment products and services, such as through adopting regulatory and industry sandboxes and cooperation at international fora.
3. In view of paragraph 1, the Parties recognise the importance of upholding safety, efficiency, trust and security in electronic payment systems through laws and regulatory measures, and that the adoption and enforcement of laws, regulatory measures and policies should take into account the risks undertaken by the payment service providers.

Article 9.23 **Subsidies**

1. Notwithstanding subparagraph 3(b) of Article 9.2 (Scope), the Parties shall review the issue of disciplines on subsidies related to trade in financial services in light of any disciplines relevant to financial services agreed under Article XV of GATS with a view to their incorporation into this Chapter.
2. A Party which considers that it is adversely affected by a subsidy of the other Party related to trade in financial services may request consultations with the other Party on such matters. On receipt of such a request, the requested Party shall enter into consultations with the requesting Party, with a view to resolving the matter, provided that the request includes an explanation of how the subsidy has adversely affected trade in financial services between the Parties. During the consultations, the Party granting the subsidy may consider a request of the other Party for information relating to the subsidy.
3. Neither Party shall have recourse to dispute settlement under Chapter 29 (Dispute Settlement) for any request made or consultations held under this Article, or any other dispute arising under this Article.