

## **CHAPTER 15**

### **TRANSPARENCY**

#### **Article 1**

#### **Definitions**

For the purposes of this Chapter:

- (a) **administrative ruling of general application** means an administrative ruling or interpretation that applies to all persons and fact situations that fall generally within its ambit and that is relevant to the implementation of this Agreement but does not include:
  - (i) a determination or ruling made in administrative or quasi-judicial proceedings that applies to a particular person, good, or service of the other Party in a specific case; or
  - (ii) a ruling that adjudicates with respect to a particular act or practice.

#### **Article 2**

#### **Publication**

1. Each Party shall ensure that its laws, regulations, procedures, and administrative rulings of general application with respect to any matter covered by this Agreement are promptly, but in no case later than 90 days after implementation or enforcement, published or otherwise made available<sup>26</sup> to interested persons and the other Party.

2. When possible, each Party shall:

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<sup>26</sup> Including through the internet or in print form.

- (a) publish in advance any measure referred to in Paragraph 1 that it proposes to adopt; and
- (b) provide, where appropriate, interested persons and the other Party with a reasonable opportunity to comment on such proposed measures.

### **Article 3**

#### **Cooperation on Business Law**

1. Notwithstanding other provisions in this Chapter, the Parties agree to:

- (a) make available information on their respective business laws, including, where appropriate, on proposed and actual amendments to their business laws;
- (b) provide each other, where appropriate, with a reasonable opportunity to comment on proposed new business laws or proposed amendments to existing business laws; and
- (c) encourage cooperation between their relevant regulatory authorities in the area of business law.

2. For the purposes of this Article, the term “business law” means domestic law of a Party which relates to security markets, insurance markets, insolvency, corporate governance or other similar business activities.

3. Neither Party shall have recourse to any dispute settlement procedures under this Agreement in respect of any issue arising from or relating to this Article.

## **Article 4**

### **Review and Appeal**

1. Each Party shall, where warranted, establish or maintain judicial, quasi-judicial or administrative tribunals, or procedures, for the purpose of the prompt review and correction of final administrative actions regarding matters covered by this Agreement, other than those taken for prudential reasons. Such tribunals shall be impartial and independent of the office or authority entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter.

2. Each Party shall ensure that, in any such tribunals or procedures, the parties to the proceedings are provided with the right to:

- (a) a reasonable opportunity to support or defend their respective positions; and
- (b) a decision based on the evidence and submissions of record or, where required by domestic law, the record compiled by the administrative authority.

3. Each Party shall ensure, subject to appeal or further review as provided in its domestic law, that decisions referred to in Paragraph 1 shall be implemented by, and shall govern the practice of, the offices or authorities with respect to the administrative action at issue.

## **Article 5**

### **Contact Points**

1. Each Party shall designate a contact point or points, and provide details of such contact points to the other Party, to facilitate communications between the Parties on any matter covered by this Agreement.

2. The Parties shall notify each other promptly of any amendments to the details of their contact points.

3. Each Party shall ensure that its contact points are able to coordinate and facilitate a response on any matter covered by this Agreement, including any enquiries referred to in Article 7.

4. At the request of either Party, the contact points of the other Party shall identify the office or official responsible for the matter and assist, as necessary, in facilitating communications with that Party.

## **Article 6**

### **Administrative Proceedings**

With a view to administering in a consistent, impartial and reasonable manner all measures affecting matters covered by this Agreement, each Party shall ensure, in its administrative proceedings applying measures referred to in Paragraph 1 of Article 2 to particular persons, goods, or services of the other Party in specific cases, that:

- (a) wherever possible, persons of the other Party that are directly affected by a proceeding are provided reasonable notice, in accordance with domestic procedures, when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated, and a general description of any issues in question;
- (b) persons of the other Party that are directly affected by a proceeding are afforded a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, when time, the nature of the proceeding, and the public interest permit; and

- (c) its procedures are in accordance with domestic law.

## **Article 7**

### **Notification and Provision of Information**

1. Where a Party considers that any actual or proposed measure might materially affect the operation of this Agreement or otherwise substantially affect the other Party's interests under this Agreement, that Party shall notify the other Party, to the extent possible, of the actual or proposed measure.
2. On request of the other Party, the requested Party shall within 30 days of receipt of the request provide information and respond to questions pertaining to any actual or proposed measure.
3. Any notification, request, information or response provided under this Article shall be conveyed to the other Party through its contact points.
4. The notification referred to in Paragraph 1 shall be regarded as having been conveyed in accordance with Paragraph 3 when the actual or proposed measure has been notified to the WTO in accordance with the *WTO Agreement*.
5. Any notification, information or response provided under this Article shall be without prejudice as to whether the measure is consistent with this Agreement.