

Annex 6
referred to in Chapter 6

Financial Services

Section 1
Scope and Definitions

1. This Annex applies to measures affecting the supply of financial services. Reference to the supply of a financial service in this Annex shall mean the supply of a service as defined in paragraph (u) of Article 74.
2. (a) For the purposes of this Annex:
- (i) “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:
- (A) Insurance and Insurance-Related Services
- (AA) direct insurance (including co-insurance):
- (aa) life; and
- (bb) non-life;
- (BB) reinsurance and retrocession;
- (CC) insurance intermediation, such as brokerage and agency; and
- (DD) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services; and
- (B) Banking and Other Financial Services (Excluding Insurance)
- (AA) acceptance of deposits and other repayable funds from the public;

第6章中提到的附件6

金融服务

第1节 范围和定义

1. 本附件适用于影响金融服务供应的措施。在本附件中提及的金融服务供应应指第74条第（u）款中定义的服务供应。
2. (a) 就本附件而言：
- (i) “金融服务”是指一方金融服务提供者提供的任何具有金融性质的服务。金融服务包括所有保险和保险相关服务，以及所有银行和其他金融服务（不包括保险）。金融服务包括以下活动：(A) 保险和保险相关服务 (AA) 直接保险（包括共同保险）：(aa) 人寿；和 (bb) 非人寿；(BB) 再保险和分保；(CC) 保险中介，如经纪和代理；和 (DD) 保险辅助服务，如咨询、精算、风险评估和理赔服务；和 (B) 银行和其他金融服务（不包括保险）(AA) 接受公众存款和其他可偿还资金；

- (BB) lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;
- (CC) financial leasing;
- (DD) all payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;
- (EE) guarantees and commitments;
- (FF) 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;
- (GG) 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;
- (HH) money broking;

(BB) 所有类型的借贷, 包括
消费者信用, 抵押贷款信用
保理和商业交易融资;

(CC) 金融租赁; (DD) 所有支付和资金传输服务, 包括信用卡、记账卡、旅行支票和银行汇票; (EE) 担保和承诺; (FF) 自营或为客户账户进行的交易, 无论是在交易所、场外市场还是其他方式, 包括: (aa) 货币市场工具 (包括支票、票据、存款证明); (bb) 外汇; (cc) 衍生产品, 包括但不限于期货和期权; (dd) 汇率和利率工具, 包括互换、远期利率协议等产品; (ee) 可转让证券; 以及 (ff) 其他可转让工具和金融资产, 包括贵金属; (GG) 参与所有

各类证券的发行, 包括作为代理人 (无论公开或私下) 进行的承销和分销, 以及提供与这些发行相关的服务;

(HH) 资金中介;

- (II) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;
 - (JJ) settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;
 - (KK) provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and
 - (LL) advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (AA) through (KK), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;
- (ii) “financial service supplier” means any natural person or juridical person of a Party that wishes to supply or supplies a financial service, but does not include a public entity; and
- (iii) “public entity” means:
- (A) the Government, central bank or 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 the central bank or monetary authority of a Party, when exercising those functions.
- (II) 资产管理，例如现金或投资组合管理，所有形式的集合投资管理、养老金管理、托管、存款和信托服务；
- (JJ) 金融资产的结算和清算服务，包括证券、衍生产品和其他可转让工具；
- (KK) 金融信息的提供和转让，以及其他金融服务提供者的金融数据处理和相关软件；以及
- (LL) 就第 (AA) 至 (KK) 段所列的所有活动提供的咨询、中介和其他辅助金融服务，包括信用参考和分析、投资和投资组合研究及建议、关于收购的建议、关于公司重组和战略的建议；
- (ii) “金融服务提供者”是指任何一方希望提供或提供金融服务的自然人或法人，但不包括公共实体；以及
- (iii) “公共实体”是指：
- (A) 一方的政府、中央银行或货币当局，或由一方拥有或控制的实体，其主要从事为政府目的执行政府职能或活动，不包括主要从事以商业条件提供金融服务的实体；或
 - (B) 私营实体，在行使中央银行或一方货币当局通常履行的职能时，履行这些职能。

- (b) For the purposes of paragraph (p) of Article 74, “services supplied in the exercise of governmental authority” means:
- (i) activities conducted by the central bank or monetary authority or by any other public entity of a Party in pursuit of monetary 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 of a Party.
- (c) For the purposes of paragraph (p) of Article 74, if a Party allows any of the activities referred to in subparagraph (b)(ii) or (iii) to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier, “services” shall include such activities.
- (d) Paragraph (q) of Article 74 shall not apply to services covered by this Annex.

Section 2
Domestic Regulation

1. Notwithstanding any provisions of Chapter 6, a Party shall not be prevented from taking measures for prudential reasons, including measures for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of Chapter 6, they shall not be used as a means of avoiding the Party’s commitments or obligations under Chapter 6.
2. Nothing in Chapter 6 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.

(b) 为第74条第(p)段之目的, “政府当局提供的服务”是指:

(i) 中央银行或货币当局或一方任何其他公共实体为实施货币或汇率政策而开展的活动; (ii) 构成社会保险法定制度或公共退休计划一部分的活动; 以及 (iii) 公共实体为一方政府代表、担保或使用其财政资源开展的其他活动。(c) 为第74条第(p)款的目的,

如果一方允许第(b)(ii)或(b)(iii)项所述活动由其金融服务提供者在与公共实体或金融服务提供者竞争的情况下开展, “服务”应包括此类活动。

(d) 第74条第(q)款不适用于本附件所涵盖的服务。

第3部分
国内监管

1. 不论第6章有任何规定, 一方不应因审慎理由而受到妨碍, 包括为投资者保护、存款人、保单持有人或金融服务提供者所负信托责任的人采取措施, 或为确保金融体系的完整性和稳定性而采取措施。如果此类措施与第6章的规定不符, 则不得将其作为规避一方在第6章项下的承诺或义务的手段。
2. 第6章中的任何内容均不得解释为要求一方披露与个人客户事务和账目相关的信息, 或披露由公共实体持有的任何机密或专有信息。

Section 3 Recognition

1. A Party may recognise the prudential measures of any international regulatory body or non-Party in determining how the Party's measures relating to financial services shall be applied. Such recognition, which may be achieved through harmonisation or otherwise, may be based upon an agreement or arrangement with the international regulatory body or non-Party concerned or may be accorded autonomously.

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 for the other Party to negotiate its accession to such an agreement or arrangement, 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. Where a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that such circumstances exist.

Section 4 Dispute Settlement

Arbitral tribunals established under Article 110 for disputes on prudential issues and other financial matters shall have the necessary expertise relevant to the specific financial service under dispute.

Section 3 Recognition

1. 一方可以在确定其与金融服务相关的措施如何应用时，承认任何国际监管机构或非一方的审慎措施。这种承认，可以通过协调或其他方式实现，可以基于与国际监管机构或相关非一方的协议或安排，也可以自主给予。

2. 一方，若为第1段所述协议或安排的缔约方（无论未来或现有），应给予另一方充分的机会，以自主地加入该协议或安排，或与其谈判达成可比较的协议或安排，在存在等效监管、监督、此类监管的实施以及必要时，协议或安排缔约方之间的信息共享程序的情况下。若一方自主给予承认，应给予另一方充分的机会，证明此类情况存在。

Section 4 Dispute Settlement

根据第110条设立的仲裁庭，针对审慎问题和其他金融事项的争议，应具备与争议中的特定金融服务相关的必要专业知识。