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ANNEX 8-C

FINANCIAL SERVICES

ARTICLE 8-C.1

Scope

1. This Annex shall apply to measures adopted or maintained by a Party 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 the Article X.1 (t) in the Chapter on Trade in Services).
2. For the purposes of Article [X.1 (n)] in the Chapter on Trade in Services, services supplied in the exercise of governmental authority means the following¹:
 - (a) activities conducted by a central bank or a 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 Party or its public entities.
3. If a Party allows any of the activities referred to in point (b) or (c) of paragraph 2 of this Article to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier, "services" shall include such activities.

4. The Article [X.1 (q)] in the Chapter on Trade in Services on services supplied in the exercise of governmental authority shall not apply to services covered by this Annex.

ARTICLE 8-C.2

Definitions

For the purposes of this Annex, the following definitions apply:

- (a) "financial service" means any service of a financial nature offered by a financial service supplier of a Party and includes the following activities:
 - (i) insurance and insurance-related services:
 - (A) direct insurance (including co-insurance):
 - (1) life;
 - (2) non-life;
 - (B) reinsurance and retrocession;
 - (C) insurance intermediation, such as brokerage and agency; and
 - (D) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;
 - (ii) banking and other financial services (excluding insurance):
 - (A) acceptance of deposits and other repayable funds from the public;
 - (B) lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;

- (C) financial leasing;
- (D) all payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;
- (E) guarantees and commitments;
- (F) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:
 - (1) money market instruments (including cheques, bills, certificates of deposits);
 - (2) foreign exchange;
 - (3) derivative products including, but not limited to, futures and options;
 - (4) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;
 - (5) transferable securities; and
 - (6) other negotiable instruments and financial assets, including bullion;
- (G) 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;
- (H) money broking;
- (I) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management,

custodial, depository and trust services;

- (J) settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;
- (K) provision and transfer of financial information, and financial data processing and related software; and
- (L) advisory, intermediation and other auxiliary financial services on all the activities listed in points (A) to (K), 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 that seeks to supply or supplies financial services and does not include a public entity;

(c) "new financial service" means a service of a financial nature including services related to existing and new products or the manner in which a product is delivered, that is not supplied by any financial service supplier in the territory of a Party but which is supplied in the territory of the other Party in accordance with that Party's laws and regulations;

(d) "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;

(e) "self-regulatory organisation" means any non-governmental body, including a securities or futures exchange or market, clearing or payment settlement agency,

other organisation or association, that exercises regulatory or supervisory authority over financial service suppliers through legislation or by delegation from central, regional or local governments or authorities², where applicable.

ARTICLE 8-C.3

Prudential carve-out

1. Nothing in this Agreement shall prevent a Party from adopting or maintaining measures for prudential reasons³⁴, such as:
 - (a) the protection of investors, depositors, policy-holders or persons to whom a fiduciary duty is owed by a financial service supplier; or
 - (b) 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 8-C.4

Specific Exceptions

1. Nothing in this Chapter [x] (Trade in Services) or Chapter [x] (Digital Trade),

² For greater certainty, a Party may require a self-regulatory organisation to be recognised under its laws and regulations.

³ For greater certainty, “prudential reasons” include the maintenance of the safety, soundness, integrity, or financial responsibility of financial service suppliers, and the maintenance of the safety, soundness, integrity of payment, settlement and clearing systems

⁴ For greater certainty, this shall not prevent a Party from adopting or maintaining measures for prudential reasons in relation to branches established in its territory by juridical persons in the other Party.

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 8-C.5

International standards

Each Party recognise the need to ensure that internationally agreed standards in the financial services sector for regulation and supervision, for the fight against money laundering and terrorist financing and for the fight against tax evasion and avoidance are implemented and applied in its territory.

ARTICLE 8-C.6

Financial services new to the territory of a Party

1. Each Party shall permit a financial service supplier of the other Party that is established in and supplying a new financial service in the territory of the other Party, to supply such new financial service, through its commercial presence in the territory of the Party, that the Party would permit its own financial service suppliers in like situations to supply without adopting a law or modifying an existing law⁵.

2. Each Party may:

⁵ For greater certainty, a Party may issue a new regulation or other subordinate measure in permitting the supply of the new financial service.

- (a) notwithstanding subparagraph 2(e) of Article X.3 (Market Access) of Chapter X (Trade in Services), determine the institutional and juridical form through which the new financial service may be supplied; or
 - (b) require authorisation, regulation or supervision by the relevant regulator for the supply of the new financial service; or
 - (c) require the financial service supplier of the other Party to become authorized to do business and to be regulated or supervised by the relevant regulator under the law of the Party.
3. 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 time⁶.

ARTICLE 8-C.7

Self-regulatory organisations

Where a Party requires membership of, participation in, or access to, any self-regulatory organisation in order for financial service suppliers⁷ of the other Party to supply financial services in its territory, the Party shall ensure that the self-regulatory organization observes the obligation of Article[X.5] in the Chapter on Trade in Services on National Treatment.

⁶ For greater certainty, Article X.X Domestic Regulation of Trade in Services Chapter and Article X.X Domestic Regulation of this Annex applies to the applications concerning supply of new financial services.

⁷ For greater certainty, having membership of, participation in, or access to a self-regulatory organisation does not in itself grant an authorisation to supply the financial service, nor does it replace the requirement for a financial service to be regulated or supervised for supply of that financial service.

ARTICLE 8-C.8

Clearing and payment systems

Under terms and conditions that accord National Treatment, each Party shall grant to financial service suppliers⁸ 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 Article does not confer access to the Party's last resort facilities.

ARTICLE 8-C.9

Domestic Regulation

1. Sub-para 4, 5, 7, 11, 12, 13, 14, 15 and 16 of Article X.X (Domestic Regulation of Trade in Services chapter) shall not apply to a measure covered by this Annex X [Financial services].
2. For the purposes of the Article X.X (Domestic Regulation of Trade in Services chapter), in the case of financial services, the competent authority is the financial regulatory authority for the respective financial service.
3. 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, such as competence and the ability to supply the service;
 - (b) the authorisation procedures are not more burdensome than necessary to ensure the

⁸ For greater certainty, granting 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 does not in itself grant an authorisation to supply the financial service, nor does it replace the requirement for a financial service to be regulated or supervised for supply of that financial service.

quality of the service; and

- (c) authorisation procedures, are not in themselves a restriction on the supply of the service.

4. If a specific time period for applying for authorisation exists, the Party shall ensure that the competent authorities shall allow a reasonable period of time for the submission of an application.

5. If a Party requires authorisation for the supply of a service, it shall ensure that its competent authorities:

- (a) provide confirmation, in accordance with its laws and regulations, that an application has been received;
- (b) where it is not practicable for a decision to be made within a reasonable time period, notify the applicant of this without undue delay;
- (c) if they consider an application incomplete⁹ for the purposes of processing under the Party's laws and regulations, within a reasonable period of time, to the extent practicable, ensure that any deadlines for the additional information required are made clear to the applicant;

6. If a Party requires authorisation for the supply of a financial service, the competent authorities of the Party shall ensure that authorisation, once granted, may enter into effect without undue delay, subject to the applicable terms and conditions.¹⁰

7. If a Party requires authorisation for the supply of a financial service, its competent authorities shall, promptly publish¹¹ the information necessary for complying with the requirements and procedures for obtaining, maintaining, amending and renewing

⁹ An application shall not be considered complete until all relevant proceedings are conducted and all necessary information is received.

¹⁰ Competent authorities are not responsible for delays due to reasons outside their competence.

¹¹ “publish” means to include in an official publication, such as an official journal, or on an official website.

such authorisation.

ARTICLE 8-C.10

Transparency

1. Articles [TRP].5 Administration of measures of general application, Article [TRP].6 Review and appeal and Article [TRP].8 Non-Application of Dispute Settlement of Chapter X.X (Transparency) shall not apply to a measure of general application covered by this Annex X [Financial services].
2. In respect of measures of general application covered by this Annex X [Financial services], each Party shall:
 - (a) 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; and
 - (b) to the extent possible, make publicly available in advance any measures of general application that it proposes to adopt and provide an interested person and the other Party a reasonable opportunity to comment on these proposed measures; and
 - (c) where applicable, require a self-regulatory organisation of the Party which adopts or maintains measures of general application to promptly publish or otherwise make them available in a manner that enables interested persons to become acquainted with them; and
 - (d) maintain or establish appropriate mechanisms, which may include enquiry points, 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.

ARTICLE 8-C.11

Credit Rating of Financial Services Suppliers

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.¹²

ARTICLE 8-C.12

Electronic Payments

1. Noting the rapid growth of electronic payments, the Parties, while maintaining resilience, recognise:
 - (a) the benefit of supporting the development of safe, efficient, trustworthy, secure, affordable, and accessible cross-border electronic payments, promoting interoperability of electronic payments and, where feasible and mutually acceptable, interlinkages of the underlying payment infrastructures, while ensuring an appropriate level of consumer protection, fraud and ML (money laundering) and terrorist financing prevention, and interdependencies risks mitigation measures, and encouraging useful innovation and competition in electronic payments services;
 - (b) the importance of upholding safety, efficiency, trust, security, and accessibility in electronic payments systems through laws and regulations that, as appropriate, account for the risks of such systems; and that the adoption and enforcement of laws, regulatory measures and policies should take into account the risks undertaken by the payment service providers; and

¹² For greater certainty, this paragraph does not apply in relation to assessments of credit rating undertaken by financial service suppliers

(c) the importance of enabling the introduction of safe, efficient, trustworthy, secure, affordable, and accessible cross-border electronic payment products and services in a timely manner.

(d) the importance of the adoption and use of internationally accepted standards.

2. To this end, in accordance with their respective laws and regulations and subject to maintaining the integrity and stability of the financial system, each Party shall endeavour to:

(a) encourage mutual cooperation and sharing information about each other's experience, technical expertise and innovations in the area of digital payment infrastructure and products;

(b) finalise decisions on regulatory or licensing approvals in a timely manner;

(c) take into account, for relevant electronic payments systems, technical standards necessary to enable greater interoperability and interlinkages of electronic payment infrastructure including payment systems;

(d) encourage financial service suppliers and electronic payments service suppliers to facilitate greater interoperability, competition, security, and innovation in electronic payments, and to safely and securely make available new technologies and standards for their financial products and services;

(e) facilitate innovation and competition and the introduction of new electronic payment products and services;

(f) maintain the confidentiality and privacy of information received except for publicly available information and data.

3. Each Party shall make its laws and regulations on electronic payments, including those pertaining to regulatory approval, licensing requirements, procedures and technical standards, publicly available in a timely manner.

4. To enhance the accessibility and convenience of cross-border payments between India and the European Union, the Parties shall endeavour to enable real-time cross border remittances, merchant payments and other transfers, by promoting interoperability of existing infrastructures and potential development of new infrastructures in the EU or India, at the discretion of their operators where applicable.

5. Notwithstanding the other provisions of this Article, the Parties are not obliged to share information the disclosure of which could prejudicially affect the safety, security, confidentiality, and competitiveness of their respective payment systems.

ARTICLE 8-C.13

Cooperation and Exchange of Views on Financial Services including Financial Technology (FinTech)

1. Recognising the increasing role of technology in financial services, the Parties shall strengthen cooperation in the financial sector and support the development of FinTech initiatives. This may include, inter alia:

- (a) cooperating on innovative financial services and FinTech through their respective policy and regulators;
- (b) promoting closer and stronger cooperation between their respective financial services and FinTech enterprises and industry bodies;
- (c) encouraging their respective financial services and FinTech enterprises to use facilities and assistance, where available, in the other Party's territory to explore new business opportunities;
- (d) collaborating, sharing knowledge and experiences and supporting development in financial services and Fin Tech, in areas such as, but not limited to, Sup Tech, Reg Tech, Central Bank Digital Currency (CBDC) and other areas of new and emerging technologies; and

(e) cooperating in relevant international fora, and where agreeable, in the development and promotion of internationally recognised standards with respect to innovative financial services and FinTech;

2. 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.