

CHAPTER 9

FINANCIAL SERVICES

Article 9.1: Definitions

For the purposes of this Chapter:

cross-border financial service supplier of a Party means a person of a Party that is engaged in the business of supplying a financial service within the Area of the Party and that seeks to supply or supplies a financial service through the cross-border supply of such a service;

cross-border trade in financial services or **cross-border supply of financial services** means the supply of a financial service:

- (a) from the Area of a Party into the Area of the other Party;
- (b) in the Area of a Party to a person of the other Party; or
- (c) by a natural person of a Party in the Area of the other Party,

but does not include the supply of a financial service in the Area of a Party by a financial institution of the other Party;

financial institution means any financial intermediary or other enterprise that is authorised to do business and regulated or supervised as a financial institution under the law of the Party in whose Area it is located;

financial institution of the other Party means a financial institution, including a branch, located in the Area of a Party that is controlled by persons of the other Party¹;

financial service means any service of a financial nature. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance), as well as services incidental or auxiliary to a service of a financial nature. Financial services include following activities:

Insurance and insurance-related services

- (a) direct insurance (including co-insurance):
 - (i) life; and

¹ In the event that more than 50 per cent of the equity interest in the financial institution is beneficially owned by persons of the other Party, that financial institution is deemed to be controlled by persons of that other Party for the purposes of this Chapter.

- (ii) non-life;
- (b) reinsurance and retrocession;
- (c) insurance intermediation, such as brokerage and agency;
- (d) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;

Banking and other financial services (excluding insurance)

- (e) acceptance of deposits and other repayable funds from the public;
- (f) lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transactions;
- (g) financial leasing;
- (h) all payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;
- (i) guarantees and commitments;
- (j) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:
 - (i) money market instruments (including cheques, bills, certificates of deposits);
 - (ii) foreign exchange;
 - (iii) derivative products including futures and options;
 - (iv) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;
 - (v) transferable securities; and
 - (vi) other negotiable instruments and financial assets, including bullion;
- (k) 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;
- (l) money broking;

- (m) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;
- (n) settlement and clearing services for financial assets, including securities, derivative products and other negotiable instruments;
- (o) provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and
- (p) advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (e) through (o), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;

financial service supplier of a Party means a person of a Party that seeks to supply or is engaged in the business of supplying a financial service within the Area of that Party;

new financial service means a financial service not supplied in the Area of a Party that is supplied within the Area of the other Party, and includes any new form of delivery of a financial service or the sale of a financial product that is not sold in the Area of a Party;

person of a Party means “person”, as defined in Article 1.3 (General Definitions) of Chapter 1 (Initial Provisions and General Definitions), of a Party and, for greater certainty, does not include a branch of an enterprise of a non-party;

public entity means:

- (a) a government, a central bank or a monetary authority of a Party, or any financial institution owned or controlled by a Party; or
- (b) a private entity, performing functions normally performed by a central bank or monetary authority, when exercising those functions; and

self-regulatory organisation means a non-governmental body, including any securities or futures exchange or market, clearing agency, or other organisation or association, that exercises regulatory or supervisory authority over financial service suppliers or financial institutions by statute or by delegation from a Party.

Article 9.2: Scope

1. This Chapter shall apply to measures adopted or maintained by a Party relating to:
 - (a) the supply of financial services by financial institutions of the other Party; and

(b) cross-border trade in financial services.

2. This Chapter shall not apply to:

- (a) government procurement of financial services;
- (b) subsidies or grants provided by a Party with respect to the cross-border supply of financial services, including government-supported loans, guarantees and insurance, or to any conditions attached to the receipt of such subsidies or grants;
- (c) activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies;
- (d) activities forming part of a statutory system of social security or public retirement plans; or
- (e) other activities conducted for the account or with the guarantee or using the financial resources of the Party, including its public entities,

except that this Chapter shall apply to the extent that a Party allows any of the activities or services referred to in subparagraph (d) or (e) to be conducted by its financial institutions in competition with a public entity or a financial institution.

3. 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 permanent employment market or who is employed on a permanent basis in its Area, and does not confer any right on that natural person with respect to that access or employment.

Article 9.3: National Treatment²

1. Each Party shall accord to financial institutions of the other Party, and to financial services supplied by such institutions, treatment no less favourable than that it accords to its own financial institutions, and to financial services supplied by its own financial institutions, in like circumstances.

2. For the purposes of the national treatment obligations in Article 9.6.1, a Party shall accord to cross-border trade in financial services and cross-border financial service suppliers of the other Party treatment no less favourable than that it accords to its own financial services and financial service suppliers, in like circumstances, with respect to the supply of the relevant service.

² For greater certainty, whether treatment is accorded in “like circumstances” under Article 9.3 or 9.4 depends on the totality of the circumstances, including whether the relevant treatment distinguishes between financial services, financial institutions or financial service suppliers on the basis of legitimate public welfare objectives.

Article 9.4: Most-Favoured-Nation Treatment

1. Each Party shall accord to:
 - (a) financial institutions of the other Party and financial services supplied by such institutions, treatment no less favourable than that it accords to financial institutions of a non-party and financial services supplied by such financial institutions, in like circumstances; and
 - (b) cross-border trade in financial services and cross-border financial service suppliers of the other Party, treatment no less favourable than that it accords to cross-border trade in financial service and cross-border financial service suppliers of a non-party, in like circumstances.
2. For greater certainty, the treatment referred to in paragraph 1 does not encompass international dispute resolution procedures or mechanisms.

Article 9.5: Market Access for Financial Institutions

Neither Party shall adopt or maintain, with respect to financial institutions of the other Party or financial services supplied by such institutions, either on the basis of a regional subdivision or on the basis of its entire Area, measures that:

- (a) impose limitations on:
 - (i) the number of financial institutions whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirement of an economic needs test;
 - (ii) the total value of financial service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
 - (iii) 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;³ or
 - (iv) the total number of natural persons that may be employed in a particular financial service sector or that a financial institution 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; or

³ Subparagraph (a)(iii) does not cover measures of a Party which limit inputs for the supply of financial services.

- (b) restrict or require specific types of legal entity or joint venture through which a financial institution may supply a financial service.

Article 9.6: Cross-Border Trade

1. Each Party shall permit, under terms and conditions that accord national treatment, cross-border trade in financial services and cross-border financial service suppliers of the other Party to supply the financial services specified in Annex 9-A.
2. Each Party shall permit persons located in its Area, and its natural person wherever located, to purchase financial services from cross-border financial service suppliers of the other Party located in the Area of the other Party. This obligation does not require a Party to permit those suppliers to do business or solicit in its Area. A Party may define “doing business” and “solicitation” for the purposes of this obligation provided that those definitions are not inconsistent with paragraph 1.
3. Without prejudice to other means of prudential regulation of cross-border trade in financial services, a Party may require the registration or authorisation of cross-border financial service suppliers of the other Party and of financial instruments.

Article 9.7: Special Formalities and Information Requirements

1. Nothing in Article 9.3 shall be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities in connection with the supply of a financial service by a financial institution of the other Party, such as a residency requirement for registration or a requirement that a financial institution be legally constituted or organised under the laws or regulations of the Party, provided that these formalities do not materially impair the protections afforded by the Party to financial institutions pursuant to this Chapter.
2. Notwithstanding Articles 9.3 and 9.4, a Party may require a financial institution of the other Party to provide information concerning that financial institution solely for informational or statistical purposes. The Party shall protect such information that is confidential from any disclosure that would prejudice the competitive position of that financial institution. Nothing in this paragraph shall be construed to prevent a Party from otherwise obtaining or disclosing information in connection with the equitable and good faith application of its law.

Article 9.8: Senior Management and Boards of Directors

1. A Party shall not require that a financial institution of the other Party to engage natural persons of any particular nationality as senior managerial or other essential personnel.

2. A Party may not require that more than a minority of the board of directors of a financial institution of the other Party be composed of natural persons of the Party or natural persons residing in the Area of the Party or a combination thereof.

Article 9.9: Non-Conforming Measures

1. Articles 9.3, 9.4, 9.5, 9.6 and 9.8 shall not apply to:

- (a) any existing non-conforming measure that is maintained by a Party at:
 - (i) the central level of government, as set out in Section A of its Schedule to Annex III;
 - (ii) a regional level of government, as set out in Section A of its Schedule to Annex III; or
 - (iii) a local level of government;
- (b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or
- (c) an amendment to any non-conforming measure referred to in subparagraph (a), to the extent that the amendment does not decrease the conformity of the measure, as it existed:
 - (i) immediately before the amendment, with Articles 9.3, 9.4, 9.5 or 9.8; or
 - (ii) on the date of entry into force of this Agreement, with Article 9.6.

2. Articles 9.3, 9.4, 9.5, 9.6 and 9.8 shall not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors or activities, as set out in Section B of its Schedule to Annex III.

3. A non-conforming measure, set out in a Party's Schedule to Annex I or II as not subject to Articles 8.3 (National Treatment), 8.4 (Most-Favoured-Nation Treatment), 8.5 (Market Access) or 8.6 (Local Presence) of Chapter 8 (Trade in Services) or Article 12.4 (National Treatment) of Chapter 12 (Establishment and Related Provisions), shall be treated as not subject to Articles 9.3, 9.4, 9.5, 9.6 or 9.8, as the case may be, to the extent that the measure, sector, sub-sector or activity set out in the entry is covered by this Chapter.

Article 9.10: Electronic Payment Card Systems

1. A Party shall allow the supply of electronic payment services for payment card transactions⁴ into its Area from the Area of the other Party by a person of that other Party. A Party may condition the cross-border supply of such electronic payment services on one or more of these requirements that a service supplier of the other Party:

- (a) register with or be authorised⁵ by relevant authorities;
- (b) be a supplier who supplies such services in the Area of the other Party; or
- (c) designate an agent office or maintain a representative or sales office in the Area of a Party.

2. For the purposes of this Article, electronic payment services for payment card transactions do not include the transfer of funds to and from transactors' accounts. Furthermore, electronic payment services for payment card transactions include only those payment network services that use proprietary networks to process payment transactions. These services are provided on a business to business basis.

3. Nothing in this Article shall be construed to prevent a Party from adopting or maintaining measures for public policy purposes, provided that these measures are not used as a means to avoid the Party's obligation under this Article. For greater certainty, such measures may include:

- (a) measures to protect personal data, personal privacy and the confidentiality of individual records, transactions and accounts, such as restricting the collection by, or transfer to, the cross-border service supplier of the other Party, of information concerning cardholder names;
- (b) the regulation of fees, such as interchange or switching fees; and
- (c) the imposition of fees as may be determined by a Party's authority, such as those to cover the costs associated with supervision or regulation or to facilitate the development of the Party's payment system infrastructure.

⁴ For greater certainty, the electronic payment services for payment card transactions referred to in this commitment fall within subcategory 71593 of the United Nations Central Product Classification, Version 2.0, and include only the processing of financial transactions such as verification of financial balances, authorisation of transactions, notification of banks (or credit card issuers) of individual transactions and the provision of daily summaries and instructions regarding the net financial position of relevant institutions for authorised transactions.

⁵ Such registration, authorisation and continued operation, for new and existing suppliers can be conditioned, for example: (i) on supervisory cooperation with the home Party's supervisor; and (ii) the supplier in a timely manner providing a Party's relevant financial regulators with the ability to examine, including onsite, the systems, hardware, software and records specifically related to that supplier's cross-border supply of electronic payment services into the Party.

4. For the purposes of this Article, **payment card** means:

For Peru:

- (a) credit and debit cards as defined under Peruvian laws and regulations; and
- (b) prepaid cards, as defined under Peruvian laws and regulations, that are issued by financial institutions.

Article 9.11: Transparency and Administration of Measures

1. The Parties recognise that transparent regulations and policies governing the activities of financial institutions and cross-border 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.

2. Each Party shall ensure that all measures of general application to which this Chapter applies are administered in a reasonable, objective and impartial manner.

3. Articles 16.2.2 and 16.2.3 of Chapter 16 (Transparency and Anti-Corruption) shall not apply to regulations of general application relating to the subject matter of this Chapter. Each Party shall, to the extent practicable:

- (a) publish in advance any such regulation that it proposes to adopt and the purpose of the regulation; and
- (b) provide interested persons and the other Party with a reasonable opportunity to comment on that proposed regulation.

4. At the time that it adopts a final regulation, a Party shall, to the extent practicable, address in writing the substantive comments received from interested persons with respect to the proposed regulation.⁶

5. To the extent practicable, each Party shall allow a reasonable period of time between publication of a final regulation of general application and the date when it enters into effect.

6. Each Party shall ensure that the rules of general application adopted or maintained by a self-regulatory organisation of the Party are promptly published or otherwise made available in a manner that enables interested persons to become acquainted with them.

⁶ For greater certainty, a Party may address those comments collectively on an official government website.

7. Each Party shall maintain or establish appropriate mechanisms for responding to inquiries from interested persons regarding measures of general application covered by this Chapter.

8. Each Party's regulatory authority shall make publicly available to interested persons the requirements, including any documentation required, for completing applications relating to the supply of financial services.

9. On request of an applicant, a Party's regulatory authority shall inform the applicant of the status of its application. If the authority requires additional information from the applicant, it shall notify the applicant without undue delay.

10. A Party's regulatory authority shall make a decision on a complete application of a financial institution or a cross-border financial service supplier of the other Party relating to the supply of financial services and notify the applicant of the decision within a reasonable period of time. An application shall not be considered complete until all relevant hearings have been held and all necessary information has been received.

11. On request of an unsuccessful applicant, a regulatory authority that has denied an application shall, to the extent practicable, inform the applicant of the reasons for the denial of the application.

12. Each Party shall endeavour to implement and apply in its Area internationally agreed standards for regulation and supervision in the financial services sector and for the fight against money laundering. For this purpose, the Parties may cooperate and exchange information and experience through the contact points of this Chapter.

Article 9.12: Expedited Availability of Insurance Services

The Parties recognise the importance of maintaining and developing regulatory procedures to expedite the offering of insurance services by licensed suppliers. These procedures may include: allowing introduction of products unless those products are disapproved within a reasonable period of time; not requiring product approval or authorisation of insurance lines for insurance other than insurance sold to individuals or compulsory insurance; or not imposing limitations on the number or frequency of product introductions. If a Party maintains regulatory product approval procedures, the Party shall endeavour to maintain or improve these existing procedures.

Article 9.13: Financial Services New to the Area of a Party

Each Party shall permit financial institutions of the other Party to supply any new financial service that the Party would permit its own financial institutions, in like

circumstances, to supply without adopting a law or modifying an existing law.⁷ Notwithstanding Article 9.5(b), a Party may determine the institution and juridical form through which the new financial service may be supplied and may require authorisation for the supply of the service. Where such authorisation is required, a decision shall be made within a reasonable time and the authorisation may be refused for prudential reasons.

Article 9.14: Self-Regulatory Organisations

When membership of, participation in, or access to, a self-regulatory organisation is required by a Party in order for financial institutions or a cross border financial service suppliers of the other Party to supply financial services in or into the Area of the Party, the Party shall ensure that the self-regulatory organisation observes the obligations of Articles 9.3 and 9.4.

Article 9.15: Performance of Back-Office Functions

1. The Parties recognise that the performance of the back-office functions of a financial institution in its Area by the head office or an affiliate of the financial institution, or by an unrelated service supplier, either inside or outside its Area, is important to the effective management and efficient operation of that financial institution. While a Party may require financial institutions to ensure compliance with any domestic requirements applicable to those functions, they recognise the importance of avoiding the imposition of arbitrary requirements on the performance of those functions.

2. For greater certainty, nothing in paragraph 1 prevents a Party from requiring a financial institution in its Area to retain certain functions.

Article 9.16: Payment and Clearing Systems

Under terms and conditions that accord national treatment, each Party shall grant to financial institutions of the other Party established in its Area 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 is not intended to confer access to the Party's lender of last resort facilities.

⁷ For greater certainty, a Party may issue a new regulation or other subordinate measure in permitting the supply of the new financial service.

Article 9.17: Denial of Benefits

1. A Party may deny the benefits of this Chapter to a financial institution or cross-border financial service supplier of the other Party if the financial institution or cross-border financial service supplier is:

- (a) an enterprise owned or controlled by persons of a non-party; and
- (b) 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 enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise.

2. A Party may deny the benefits of this Chapter to a financial institution or cross-border financial service supplier of the other Party if the financial institution or cross-border financial service supplier is an enterprise owned or controlled by persons of a non-party or by persons of the denying Party that has no substantial business activities in the Area of the other Party.

Article 9.18: Payments and Transfers

1. Each Party shall permit all transfers and payments that relate to the supply of financial services to be made freely and without delay into and out of its Area.

2. Each Party shall permit transfers and payments that relate to the supply of financial services to be made in a freely usable currency at the market rate of exchange that prevails at the time of transfer.

3. Notwithstanding paragraph 1 and paragraph 2, a Party may prevent or delay a transfer or payment through the equitable, non-discriminatory and good faith application of its laws⁸ relating to:

- (a) bankruptcy, insolvency⁹ or the protection of the rights of creditors;
- (b) issuing, trading or dealing in securities, futures, options or derivatives;
- (c) criminal or penal offences;

⁸ For greater certainty, this Article does not preclude the equitable, non-discriminatory and good faith application of a Party's laws relating to its social security, public retirement or compulsory savings programmes.

⁹ For greater certainty, for Hong Kong, China, insolvency includes resolution as defined under the *Financial Institutions (Resolution) Ordinance (Cap. 628)*.

- (d) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities; or
- (e) ensuring compliance with orders or judgments in judicial or administrative proceedings.

Article 9.19: Treatment of Certain Information

Without prejudice to Article 19.1 (Disclosure of Information) of Chapter 19 (General Provisions and Exceptions), nothing in this Chapter shall be construed to require a Party to disclose information relating to the affairs and accounts of individual customers of financial institutions or cross-border financial service suppliers or any confidential information, the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or prejudice legitimate commercial interests of particular enterprises.

Article 9.20: Exceptions Including for Prudential Reasons

1. Notwithstanding any other provisions of this Chapter and Agreement except for Chapter 2 (Trade in Goods), Chapter 3 (Rules of Origin and Origin Procedures), Chapter 4 (Customs Procedures and Trade Facilitation), Chapter 5 (Technical Barriers to Trade), Chapter 6 (Sanitary and Phytosanitary Measures) and Chapter 7 (Trade Remedies), a Party shall not be prevented from adopting or maintaining measures for prudential reasons¹⁰, including for the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed by a financial institution or cross-border financial service supplier, or to ensure the integrity and stability of the financial system. If these measures do not conform with the provisions of this Agreement to which this exception applies, they shall not be used as a means of avoiding the Party's commitments or obligations under those provisions.

2. Nothing in this Chapter, Chapter 8 (Trade in Services), or Chapter 11 (Electronic Commerce), shall apply to non-discriminatory measures of general application taken by any public entity in pursuit of monetary and related credit policies or exchange rate policies.¹¹

3. Notwithstanding Article 9.18, a Party may prevent or limit transfers by a financial institution or cross-border financial service supplier to, or for the benefit of, an affiliate

¹⁰ The Parties understand that the term "prudential reasons" includes the maintenance of the safety, soundness, integrity, or financial responsibility of individual financial institutions or cross-border financial service suppliers as well as the safety, and financial and operational integrity of payment and clearing systems.

¹¹ For greater certainty, this paragraph shall not affect a Party's obligations under Article 8.12 (Payments and Transfers) of Chapter 8 (Trade in Services).

of or person related to such institution or supplier, through the equitable, non-discriminatory and good faith application of measures relating to maintenance of the safety, soundness, integrity, or financial responsibility of financial institutions or cross-border financial service suppliers. This paragraph does not prejudice any other provision of this Agreement that permits a Party to restrict transfers.

4. For greater certainty, nothing in this Chapter shall be construed to prevent a Party from adopting or enforcing measures necessary to secure compliance with laws or regulations that are not inconsistent with this Chapter, including those relating to the prevention of deceptive and fraudulent practices or to deal with the effects of a default on financial services contracts, subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the Parties or between the Parties and non-parties where like conditions prevail, or a disguised restriction on investment in financial institutions or cross-border trade in financial services as covered by this Chapter.

Article 9.21: Recognition

1. A Party may recognise prudential measures of a non-party in the application of measures covered by this Chapter.¹² That recognition may be:

- (a) accorded autonomously;
- (b) achieved through harmonisation or other means; or
- (c) based upon an agreement or arrangement with the non-party.

2. A Party that accords recognition of prudential measures under paragraph 1 shall provide adequate opportunity to the other Party to demonstrate that circumstances exist in which there are or would be equivalent regulation, oversight, implementation of regulation and, if appropriate, procedures concerning the sharing of information between the Parties.

3. If a Party accords recognition of prudential measures under paragraph 1(c) and the circumstances set out in paragraph 2 exist, that Party shall provide adequate opportunity to the other Party to negotiate accession to the agreement or arrangement, or to negotiate a comparable agreement or arrangement.

Article 9.22: Consultations

1. A Party may request in writing, consultations with the other Party regarding any

¹² For greater certainty, nothing in Article 9.4 shall be construed to require a Party to accord recognition to prudential measures of the other Party.

matter arising under this Agreement that affects financial services. The other Party shall give sympathetic consideration to the request. The Parties shall report the results of their consultations to the Joint Commission.

2. Consultations under this Article shall include officials of the authorities specified in Annex 9-B.

3. 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 regulators or the requirements of an agreement or arrangement between financial authorities of the Parties or to require a regulatory authority to take any action that would interfere with specific regulatory, supervisory, administrative or enforcement matters.

4. Where a financial authority of a Party requires information for supervisory purposes concerning a financial institution or cross-border financial service supplier of the other Party, such financial authority may approach the competent financial authority in the Area of the other Party to seek the information. The provision of such information may be subject to the terms, conditions and limitations contained in the other Party's relevant laws and regulations or to the requirement of a prior agreement or arrangement between the respective financial authorities.

Article 9.23: Contact Points

1. Each Party shall designate one or more contact points to facilitate communication between the Parties on any matter covered by this Chapter, and shall provide details of such contact points to the other Party.

2. Each Party shall notify the other Party promptly of any amendments to the details of its contact points.

Article 9.24: Specific Provisions on Dispute Settlement

1. Chapter 18 (Dispute Settlement) shall apply as modified by this Article to the settlement of disputes arising under this Chapter.

2. If a Party claims that a dispute arises under this Chapter, Article 18.9 (Composition of Panels) of Chapter 18 (Dispute Settlement) shall apply, except that:

- (a) if the disputing Parties agree, each panellist shall meet the qualifications in paragraph 3; and
- (b) in any other case:

- (i) each disputing Party shall select panellists that meet the qualifications set out in either paragraph 3 or Article 18.10 (Qualifications of Panellists) of Chapter 18 (Dispute Settlement); and
- (ii) if the responding Party invokes Article 9.20, the chair of the panel shall meet the qualifications set out in paragraph 3, unless the disputing Parties otherwise agree.

3. In addition to the requirements set out in Article 18.10.1(b) to (d) of Chapter 18 (Dispute Settlement), panellists in disputes arising under this Chapter shall have expertise or experience in financial services law or practice, which may include the regulation of financial institutions.

4. If a Party seeks to suspend benefits in the financial services sector, a panel that reconvenes to make a determination on the proposed suspension of benefits, in accordance with Article 18.19.7 of Chapter 18 (Dispute Settlement), shall seek the views of financial services experts, as necessary.