

ANNEX 12C
SPECIFIC COMMITMENTS

SECTION A: TRANSFER OF INFORMATION

Each Party shall allow a financial institution of the other Party to transfer information in electronic or other form, into and out of its territory, for data processing where such processing is required in the institution's ordinary course of business¹. Korea shall give effect to this commitment no later than two years after the date of entry into force of this Agreement.

¹ The provision and transfer of financial information and financial data processing and related software as referred to in subparagraph (o) of the definition of financial service in Article 12.20 may be subject to prior authorization from the relevant regulator, as required.

SECTION B: SUPERVISORY COOPERATION

The Parties support the efforts of their respective financial regulators to provide assistance to the regulators of the other Party to enhance consumer protection and those regulators' ability to prevent, detect, and prosecute unfair and deceptive practices. Each Party confirms that its financial regulators have the legal authority to exchange information in support of those efforts. The Parties encourage financial regulators to continue their ongoing efforts to strengthen this cooperation through bilateral consultations, or bilateral or multilateral cooperative mechanisms, such as memoranda of understanding or *ad hoc* undertakings.

SECTION C: PORTFOLIO MANAGEMENT

KOREA

1. Korea shall allow a financial institution organized outside its territory to provide investment advice and portfolio management services to the manager of a collective investment scheme located in its territory, provided that the scope of the services does not include:

- (a) trustee services;
- (b) custodial services; and
- (c) execution services that are not related to managing a collective investment scheme.

This paragraph shall apply to the supply of investment advice or portfolio management services with regard to won-denominated assets only to the extent that Korea allows the supply of these services with respect to such assets. Once Korea allows the supply of certain of these services with regard to Korean won-denominated assets, it shall not subsequently prohibit or limit the supply of such services.

2. For greater certainty, paragraph 1 is subject to Articles 12.1 and 12.5.3.

3. For purposes of paragraph 1, **collective investment scheme** means:

- (a) an investment trust reported to the *Financial Services Commission* in accordance with the *Financial Investment Services and Capital Markets Act*; and
- (b) an investment company registered with the *Financial Services Commission* in accordance with the *Financial Investment Services and Capital Markets Act*.

PERU

4. Peru shall allow a financial institution organized either inside or outside its territory to provide the following services to a collective investment scheme located in its territory²:

- (a) investment advice; and
- (b) portfolio management services, excluding:
 - (i) custodial services, unless they are related to managing a collective investment scheme;

² Notwithstanding this paragraph, a Party may require a collective investment scheme located in the Party's territory to retain ultimate responsibility for the management of the collective investment scheme, including the assets of the collective investment scheme.

- (ii) trustee services, but not excluding the holding in trust of investments by a collective investment scheme established as a trust; and
 - (iii) execution services, unless they are related to managing a collective investment scheme;
- 5. Paragraph 4 is subject to Articles 12.1 and 12.5.3.
- 6. For purposes of paragraphs 4 and 5, **collective investment scheme** means:
 - (a) mutual funds for investments and securities, in accordance with Consolidated Text of the *Securities Market Law* (Texto Único Ordenado de la *Ley del Mercado de Valores*), approved by *Supreme Decree* N° 093-2002-EF (*Decreto Supremo* N° 093-2002-EF) ;
 - (b) investment funds in accordance with *Legislative Decree* N° 862 (*Decreto Legislativo* N° 862); and
 - (c) pension funds in accordance with *Consolidated Text* approved by *Supreme Decree* N° 054-97-EF (*Decreto Supremo* N° 054-97-EF).

SECTION D: SERVICES DESCRIBED IN ARTICLE 12.1.3(a)

PERU

In the context of the maintenance, modification, or adoption of a privatized or partially privatized retirement plan or social security system³, and notwithstanding any non-conforming measure(s) of Peru referring to social services and found in its Schedule set out in Annex II or III:

- (a) Articles 12.2.1 and 12.2.2 shall apply, subject to Article 12.1.3(a), including Annex 12A, to the supply by financial institutions of those activities and services described in Article 12.1.3(a) that are not reserved for supply by the government of Peru, a public entity, or a financial institution; and
- (b) Peru shall not adopt or maintain measures that impose limitations on the number of financial institutions in the form of either numerical quotas or the requirements of an economic needs test, with respect to investors of the other Party seeking to establish financial institutions to supply such activities and services.

³ For greater certainty, this specific commitment applies only to measures within the scope of this Chapter, as specified in Article 12.1, including Annex 12A.