

ANNEX 8-A

REGULATORY COOPERATION IN FINANCIAL SERVICES

Objectives of regulatory cooperation

1. The Parties recognise that promoting cooperation between the Parties and their financial regulatory authorities supports objectives which include the following:
 - (a) strengthening financial systems and promoting financial stability;
 - (b) improving market integrity and countering undesirable market fragmentation;
 - (c) promoting fair and competitive markets;
 - (d) promoting robust and efficient institutions, markets and infrastructure;
 - (e) protecting consumers, investors, depositors, policy-holders and persons to whom a fiduciary duty is owed by financial service suppliers;
 - (f) providing a transparent and predictable environment for financial service suppliers; and
 - (g) enhancing bilateral trade and investment in financial services between the Parties.
2. The Parties shall, wherever practicable, work together bilaterally and in international bodies to achieve the objectives referred to in paragraph 1 (hereinafter referred to in this Annex as "regulatory cooperation").
3. In their regulatory cooperation, the Parties shall base themselves on the principles and prudential standards agreed at multilateral level and follow the principles of regulatory cooperation set out in paragraphs 6 to 14 as implemented in the framework envisaged in paragraphs 23 to 25.

Scope of regulatory cooperation

4. Regulatory cooperation shall cover all areas of financial services, which shall include emerging issues of mutual interest, unless otherwise agreed by the Parties.
5. The provisions in this Annex shall be without prejudice to the distribution and exercise of competences of regulatory or supervisory authorities of the Parties. The Parties recognise that their regulatory cooperation should be based on due consideration of differences in market structures and business models that may exist between the Parties.

Principles of regulatory cooperation

6. To support regulatory cooperation, the Parties shall, wherever practicable, work together in international standard-setting bodies to develop effective international standards and facilitate coherent implementation in the area of financial services. Each Party shall use its best endeavours to ensure that internationally agreed standards for regulation and supervision in the area of financial services are implemented and applied in its territory.¹
7. The Parties shall, wherever practicable, work to achieve mutual compatibility of their respective regulatory and supervisory frameworks for financial services in areas of common interest in a way that supports the objectives referred to in paragraph 1. Such work may include developing consistent regulatory approaches on an outcomes basis and reducing unnecessarily burdensome, duplicative or divergent regulatory requirements.
8. Without prejudice to its own legislative processes, each Party shall use its best endeavours to offer the other Party an opportunity to be informed at an early stage and to provide comments on its planned regulatory initiatives in the area of financial services that may be of relevance to the other Party.

¹ For greater certainty, for the purposes of this Annex, regulatory standards adopted by international standard-setting bodies may be considered as internationally agreed standards, where the Parties' financial regulatory authorities have agreed on such regulatory standards and participate in such bodies.

9. A Party shall, wherever practicable, defer to the regulatory and supervisory frameworks of the other Party. Such deference shall be without prejudice to each Party's right to assess, on the basis of its own regulatory and supervisory frameworks, the regulatory and supervisory frameworks of the other Party, including the effective enforcement of such frameworks, with a view to establishing deference. For the purposes of any such assessment, a Party shall not require that the regulatory and supervisory frameworks of the other Party are identical to its own frameworks, but shall base its assessment on regulatory outcomes.
10. In the areas where a Party defers to the regulatory and supervisory frameworks of the other Party, the Parties shall keep each other informed of how they provide for effective implementation and enforcement of regulatory and supervisory frameworks, consult with each other on changes to their respective regulatory and supervisory frameworks, and ensure that appropriate mechanisms are in place for the exchange of information on supervision and enforcement.
11. A Party shall, in the process of formulating its planned regulatory or supervisory initiatives, in the areas of financial services where that Party defers to the regulatory and supervisory framework of the other Party, give due consideration to the impact of those initiatives on its decision to defer to the other Party's regulatory and supervisory frameworks.
12. A Party shall review a measure which has been brought to its attention by a specific written request of the other Party, which may have an impact on the ability of the other Party's financial service suppliers to provide financial services within the former Party's territory. Any such requests for review shall only be made where the impact is material and shall include a clear explanation of the impact of the measure and its materiality. Any such review shall consider whether and to what extent the measure may be rendered mutually compatible.

13. Each Party may rescind its decision to defer to the regulatory and supervisory frameworks of the other Party in a specific area of financial services and revert to the application and enforcement of its own regulatory and supervisory frameworks in circumstances such as, but not exclusively, where:
 - (a) the regulatory and supervisory frameworks of the other Party are no longer equivalent in outcome;
 - (b) the other Party fails to enforce its regulatory and supervisory frameworks effectively; or
 - (c) there is insufficient cooperation, including sharing of information, by the other Party in the areas set out under paragraph 10.

14. Prior to taking a decision to rescind pursuant to paragraph 13, a Party shall give written notification of its intention to rescind to the other Party. Following receipt of such notification, the Parties shall consult with each other within a reasonable timeframe, as agreed between the Parties. Such consultation may include technical mediation pursuant to paragraphs 26 to 31.

Emerging Issues

15. To support innovation in the areas of financial services, the Parties shall endeavour to collaborate, share knowledge, experiences and developments in financial services and facilitate the cross-border development of new financial services.

16. The Parties recognise the importance of building a sustainable and inclusive economy consistent with the outcome document of the United Nations summit for the adoption of the post-2015 development agenda, entitled "Transforming our world: the 2030 Agenda for Sustainable Development" adopted by the General Assembly of the United Nations on 25 September 2015, which includes gender equality and action to combat climate change.

Joint United Kingdom-Japan financial regulatory forum

17. The Parties establish the Joint United Kingdom-Japan financial regulatory forum on the date of entry into force of this Agreement (hereinafter referred to in this Annex as "the Forum").
18. The Forum is in charge of steering regulatory cooperation between the Parties. In particular, the Forum takes stock of progress and undertakes forward planning of regulatory cooperation. The Forum shall observe the principles of regulatory cooperation set out in paragraphs 6 to 14 as implemented in the framework envisaged in paragraphs 23 to 25.
19. Without prejudice to the right of each Party to decide on the composition of its representation in the Forum, the Forum is composed of representatives of the Government of the United Kingdom, including Her Majesty's Treasury, and the Bank of England and Financial Conduct Authority and their successors, and the Government of Japan, including the Financial Services Agency or its successors, which are at technical level in charge of financial services regulatory issues. Each Party may request the other Party to invite representatives from other financial regulatory or supervisory authorities within the territory of the other Party with a view to contributing to the Forum's discussions and preparatory work in matters related to the activity of those financial regulatory or supervisory authorities. The other Party should give positive consideration to such request.
20. The meetings of the Forum will be co-chaired by senior officials of Her Majesty's Treasury of the United Kingdom and the Financial Services Agency of Japan, or their respective successors.
21. Each Party in the Forum shall designate a contact point to facilitate regulatory cooperation. The Forum may establish expert working groups to examine specific issues.
22. The meetings of the Forum shall be held alternately in the United Kingdom and in Japan, at least once a year, and whenever the members of the Forum consider it necessary. When necessary, the meetings may be held alternatively by video conference, where the Parties agree.

Framework for regulatory cooperation

23. The Forum shall develop and apply a framework for regulatory cooperation in order to implement the provisions of paragraphs 6 to 16.
24. The framework for regulatory cooperation shall include:
 - (a) without prejudice to each Party's own legislative and administrative processes, mechanisms for information exchange and consultation with the other Party, in appropriate forms;
 - (b) guidelines on deference to each other's regulatory and supervisory framework, adapted where practicable for each specific area of financial regulation;
 - (c) a procedure for reviewing a measure referred to in paragraph 12 which has been brought to a Party's attention by a specific request of the other Party;
 - (d) exchanges of experiences and best practices on diversity in finance, sustainable finance and other related emerging issues as agreed by the Parties;
 - (e) terms of reference and guidelines on the governance of the Forum;
 - (f) a process for the technical mediation referred to in paragraphs 26 to 31; and
 - (g) any other arrangements to enhance regulatory cooperation as agreed by the Parties.
25. The framework for regulatory cooperation may also envisage specific arrangements to facilitate cooperation in cross-border supervision and enforcement.

Technical mediation

26. The provisions of this Annex shall not be subject to dispute settlement under Chapter 22.
27. Without prejudice to paragraph 26, each Party may request in writing the other Party to initiate a process of technical mediation with respect to the principles of regulatory cooperation set out in paragraphs 6 to 14. The process of technical mediation may be initiated only after the Parties agree on its use in a specific matter.
28. Upon agreement of the Parties to initiate the process pursuant to paragraph 27, the Forum shall establish a working group for technical mediation (hereinafter referred to in this Annex as the "Working Group"). The Working Group shall be composed of representatives of each Party, including their relevant financial regulatory or supervisory authorities, and shall be chaired by a mediator with relevant expertise who shall be independent of both Parties and who shall be appointed by the Forum.
29. The Working Group shall use its best endeavours to work to agree a resolution to the dispute within a reasonable timeframe agreed by the Parties.
30. The chair appointed pursuant to paragraph 28 shall submit a report with the results of the technical mediation to the co-chairs of the Forum.
31. The Parties shall act in good faith in any attempt to resolve any dispute arising under this Annex.
