

ANNEX 9A

Cross-Border Trade in Financial Services

Australia

Insurance and insurance-related services

1. Subject to any limitations set out elsewhere in Australia's commitments, Articles 9.5 (National Treatment), 9.6 (Market Access) and 9.7 (Local Presence) apply to the cross-border supply or trade in financial services, as defined in subparagraph (a) of the definition of cross-border supply of financial services in Article 9.1 (Definitions) with respect to:
 - (a) insurance of risks relating to:
 - (i) maritime shipping and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods and any liability arising therefrom;
 - (ii) goods in international transit;
 - (iii) credit and suretyship;
 - (iv) land vehicles;
 - (v) fire and natural forces;
 - (vi) other damage to property;
 - (vii) motor vehicle liability, except in relation to any liability which, in accordance with domestic law, must be insured by an insurer who is authorised under such laws;
 - (viii) general liability;
 - (ix) miscellaneous financial loss;
 - (x) difference in conditions and difference in limits, where the difference in conditions or difference in limits cover is provided under a master policy issued by an insurer to cover risks across multiple jurisdictions;
 - (b) reinsurance and retrocession;
 - (c) insurance intermediation, such as brokerage and agency, as referred to in subparagraph (c) of the definition of financial service in Article 9.1 (Definitions), of insurance risks related to the services listed in subparagraphs (a) and (b); and
 - (d) services auxiliary to insurance as described in subparagraph (d) of the definition of financial service in Article 9.1 (Definitions).
2. Paragraph 1 does not permit suppliers of the services listed in subparagraphs 1(a)(iii) through (x) to provide these services to a retail client.

3. For the purposes of the commitments made in subparagraphs 1(a)(iii) through(x), for Australia, “retail client” means:
 - (a) a natural person; or
 - (b) a small business as defined under section 761G(12) of the *Corporations Act 2001* (Cth).

Banking and other financial services (excluding insurance)

4. Subject to any limitations set out elsewhere in Australia’s commitments, Articles 9.5 (National Treatment), 9.6 (Market Access) and 9.7 (Local Presence) apply to the cross-border supply or trade in financial services, as defined in subparagraph (a) of the definition of cross-border supply of financial services in Article 9.1 (Definitions) with respect to:
 - (a) the provision and transfer of financial information, and financial data processing and related software, as described in subparagraph (o) of the definition of banking and other financial services (excluding insurance) in Article 9.1 (Definitions);
 - (b) advisory and other auxiliary financial services relating to banking and other financial services, as described in subparagraph (p) of the definition of banking and other financial services (excluding insurance) in Article 9.1 (Definitions), but not intermediation as described in that subparagraph;
 - (c) securities related transactions on a wholesale basis between and among financial institutions and other entities; and
 - (d) portfolio management services by a financial service supplier of the United Kingdom to:
 - (i) a collective investment vehicle or management company of such a vehicle;
 - (ii) insurance companies; and
 - (iii) pension funds and management companies of such funds.
5. For the purposes of the commitment made in paragraph 4(d), for Australia:
 - (a) collective investment scheme¹ means a “managed investment scheme” as defined under Section 9 of the *Corporations Act 2001* (Cth), other than a managed investment scheme operated in contravention of Subsection 601ED (5) of the *Corporations Act 2001* (Cth), or an entity that:
 - (i) carries on a business of investment in securities, interests in land, or other investments; and

¹ For greater certainty, a Party may require a collective investment scheme or a person of a Party involved in the operation of the scheme located in the Party’s territory to retain ultimate responsibility for the management of the collective investment scheme.

- (ii) in the course of carrying on that business, invests funds subscribed, whether directly or indirectly, after an offer or invitation to the public (within the meaning of Section 82 of *the Corporations Act 2001 (Cth)*) made on terms that the funds subscribed would be invested;
 - (b) portfolio management services to a collective investment scheme located in the Area of Australia, exclude:
 - (i) custodial services² and execution services that are not related to managing a collective investment scheme; and
 - (ii) trustee services.
6. For greater certainty, paragraph 4 does not permit suppliers of the services listed in subparagraphs 4(d)(i) through (iii) to provide these services to a retail client.
7. For the purposes of the commitments made in paragraph 4(d)(i) through (iii), for Australia, “retail client” means a person who is defined as a retail client under section 761G of the *Corporations Act 2001 (Cth)* and is not excluded from being a retail client under section 761GA of the *Corporations Act 2001 (Cth)*.

² Custodial services are included in paragraph (d) only with respect to investments for which the primary market is outside of the territory of Australia.

United Kingdom

Insurance and insurance-related services

1. Subject to any limitations set out elsewhere in the United Kingdom's commitments, Articles 9.5 (National Treatment), 9.6 (Market Access) and 9.7 (Local Presence) apply to the cross-border supply or trade in financial services, as defined in subparagraph (a) of the definition of cross-border supply of financial services in Article 9.1 (Definitions) with respect to:
 - (a) insurance of risks relating to:³
 - (i) maritime shipping and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods and any liability arising therefrom;
 - (ii) goods in international transit;
 - (iii) credit and suretyship;
 - (iv) land vehicles;
 - (v) fire and natural forces;
 - (vi) other damage to property;
 - (vii) motor vehicle liability, except in relation to any liability which, in accordance with domestic law, must be insured by an insurer who is authorised under such laws;
 - (viii) general liability;
 - (ix) miscellaneous financial loss;
 - (x) difference in conditions and difference in limits, where the difference in conditions or difference in limits cover is provided under a master policy issued by an insurer to cover risks across multiple jurisdictions;
 - (b) reinsurance and retrocession;
 - (c) insurance intermediation, such as brokerage and agency, as referred to in subparagraph (c) of the definition of financial service in Article 9.1

³For greater certainty, insurance activities in the categories mentioned in subparagraphs 1(a)(iii) through (x) are included in the scope of the commitments only where a supplier is carrying on that insurance business entirely outside that Party's territory.

(Definitions), of insurance risks related to the services listed in subparagraphs (a) and (b); and

- (d) services auxiliary to insurance as described in subparagraph (d) of the definition of financial service in Article 9.1 (Definitions).
2. Paragraph 1 does not permit suppliers of the services listed in subparagraphs 1(a)(iii) through (x) to provide these services to a retail client.
 3. In this Annex, for the United Kingdom, “retail client” means:
 - (a) a natural person; or
 - (b) an enterprise which satisfies two or more of the requirements specified in section 465(3) of the *Companies Act 2006*.

Banking and other financial services (excluding insurance)

4. Subject to any limitations set out elsewhere in the United Kingdom’s commitments, Articles 9.5 (National Treatment), 9.6 (Market Access) and 9.7 (Local Presence) apply to the cross-border supply or trade in financial services, as defined in subparagraph (a) of the definition of cross-border supply of financial services in Article 9.1 (Definitions) with respect to:
 - (a) the provision and transfer of financial information, and financial data processing and related software, as described in subparagraph (o) of the definition of banking and other financial services (excluding insurance) in Article 9.1 (Definitions);
 - (b) advisory and other auxiliary financial services relating to banking and other financial services, as described in subparagraph (p) of the definition of banking and other financial services (excluding insurance) in Article 9.1 (Definitions), but not intermediation as described in that subparagraph; and
 - (c) portfolio management services by a financial service supplier of Australia to:
 - (i) a collective investment vehicle or management company of such a vehicle;
 - (ii) insurance companies; and
 - (iii) pension funds and management companies of such funds.
5. For the purposes of the commitment made in paragraph 4(c), for the United Kingdom:
 - (a) a collective investment vehicle means:
 - (i) a collective investment scheme as defined in section 235 of the *Financial Services and Markets Act 2000*; or
 - (ii) an alternative investment fund as defined in regulation 3 of the *Alternative Investment Fund Managers Regulations 2013*;

- (b) portfolio management means managing portfolios in accordance with mandates given by clients on a discretionary client-by-client basis where such portfolios include one or more financial instruments; and
- (c) portfolio management services do not include:
 - (i) custodial services;
 - (ii) trustee services; or
 - (iii) execution services.