

ANNEX 8-A

REGULATORY COOPERATION ON FINANCIAL REGULATION

Regulatory cooperation

1. The Parties shall work together bilaterally and in international bodies with the objective of further strengthening global financial stability, fair and efficient markets and the protection of investors, depositors, policy-holders or persons to whom a fiduciary duty is owed by a financial service supplier (hereinafter referred to in this Annex as "regulatory cooperation").
2. In their regulatory cooperation, the Parties shall base themselves on the principles and prudential standards agreed at multilateral level and follow the principles set out in paragraphs 5 to 12 as implemented in the framework envisaged in paragraphs 19 to 21.

Scope of regulatory cooperation

3. Regulatory cooperation shall cover the entire area of financial services, which shall also include accounting and auditing frameworks, unless otherwise agreed by the Parties.

4. This Annex shall be without prejudice to the distribution and exercise of competences of regulatory and 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 in the area of financial services.

Principles of regulatory cooperation

5. Each Party shall make 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. Those internationally agreed standards are, *inter alia*, the standards and principles issued by the Basel Committee on Banking Supervision, the International Association of Insurance Supervisors, the International Organization of Securities Commissions, and the Financial Stability Board.
6. The Parties shall make their best endeavours to achieve mutual compatibility of their respective regulatory and supervisory frameworks for financial services in a way that supports the objectives referred to in paragraphs 1 and 2.

7. Without prejudice to its own legislative processes, each Party shall make 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.
8. The Parties shall be able, wherever possible, to rely on each other's rules and supervision. The foregoing shall be without prejudice to each Party's right to assess, on the basis of its own rules, in particular criteria for reliance, the regulatory and supervisory framework of the other Party with a view to establishing reliance. For the purposes of any such assessment, a Party shall not require that rules and supervision of the other Party are identical to its own rules and supervision, but shall base its assessment on regulatory outcomes.
9. The Parties shall keep each other informed of how they provide for effective supervision and enforcement of rules for implementing internationally agreed standards or any other rules, in particular in the areas where one of the Parties relies on the regulatory and supervisory framework of the other Party.
10. Each Party shall, in the process of formulating its planned regulatory initiatives in the area of financial services, give due consideration to the impacts of that initiative on market operators and the jurisdiction of the other Party.

11. Each Party shall examine a measure which has been brought to its attention by a specific written request of the other Party and which may have an impact on the ability of market operators to provide financial services within the territories of the Parties, with a view to rendering, insofar as possible, the measure mutually compatible.
12. Each Party may rescind at any time its decision to rely on the regulatory and supervisory framework of the other Party and revert to the application and enforcement of its own rules, if rules and supervision of the other Party are no longer equivalent in outcome, if the other Party fails to enforce its rules effectively or if there is insufficient cooperation of the other Party in the supervision of financial institutions. The Parties shall consult with each other in an appropriate manner prior to reverting to the application and enforcement of their own rules.

Joint European Union-Japan financial regulatory forum

13. The Parties hereby establish the Joint European Union-Japan financial regulatory forum at the date of entry into force of this Agreement (hereinafter referred to in this Annex as "the forum").

14. 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 5 to 12 as implemented in the framework envisaged in paragraphs 19 to 21.
15. The forum shall be composed of representatives of both the European Commission and the Government of Japan, including the Financial Services Agency, which are at technical level in charge of financial services regulatory issues. Without prejudice to the right of each Party to decide on the composition of its representation in the forum, 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.
16. The meetings of the forum will be co-chaired by senior officials of the European Commission and the Financial Services Agency of Japan.
17. 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.

18. The meetings of the forum shall be held alternately in Tokyo, Japan and in Brussels, Belgium, at least once a year, and whenever the members of the forum consider it necessary.

Framework for regulatory cooperation

19. The forum shall develop and apply a framework for regulatory cooperation in order to implement the principles set out in paragraphs 5 to 12.
20. The framework for regulatory cooperation shall include:
 - (a) a mechanism for information exchange and consultation with the other Party, in appropriate forms, on planned regulatory initiatives, without prejudice to the legislative and administrative processes of each Party;
 - (b) guidelines on reliance on each other's regulatory and supervisory framework, if possible adapted for each specific area of financial regulation;
 - (c) a procedure for examining a measure referred to in paragraph 11 which has been brought to a Party's attention by a specific request of the other Party;

- (d) guidelines on the governance of the forum;
- (e) a process for the technical mediation referred to in paragraphs 22 to 26; and
- (f) if so agreed, any other arrangements to enhance regulatory cooperation.

21. The framework for regulatory cooperation may also envisage specific arrangements to facilitate cooperation in cross-border supervision and enforcement.

Technical mediation

22. The provisions of this Annex shall not be subject to dispute settlement under Chapter 21.

23. Without prejudice to paragraph 22, 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 5 to 12. The process of technical mediation may be initiated only after the Parties agree on its use in a specific matter.

24. Upon agreement of the Parties to initiate the process pursuant to paragraph 23, the forum shall establish a working group for technical mediation. That working group shall be composed of representatives of each Party 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.
25. The chair appointed pursuant to paragraph 24 shall submit a report with the results of the technical mediation to the co-chairs of the forum.
26. The Parties shall act in good faith in any attempt to resolve any dispute arising under this Annex.
