

capital in terms of maximum percentage limits on foreign shareholding or the total value of individual or aggregate foreign investment.

Article SERVIN.5.36: International mobile roaming²⁸

1. The Parties shall endeavour to cooperate on promoting transparent and reasonable rates for international mobile roaming services in ways that can help promote the growth of trade among the Parties and enhance consumer welfare.
2. Parties may choose to take steps to enhance transparency and competition with respect to international mobile roaming rates and technological alternatives to roaming services, such as:
 - (a) ensuring that information regarding retail rates is easily accessible to end users; and
 - (b) minimising impediments to the use of technological alternatives to roaming, whereby end users visiting the territory of a Party from the territories of other Parties can access telecommunications services using the device of their choice.
3. Each Party shall encourage suppliers of public telecommunications services in its territory to make publicly available information on retail rates for international mobile roaming services for voice, data and text messages offered to their end users when visiting the territory of the other Party.
4. Nothing in this Article shall require a Party to regulate rates or conditions for international mobile roaming services.

Section 5: Financial services

Article SERVIN.5.37 Scope

1. This Section applies to measures of a Party affecting the supply of financial services in addition to Chapters 1, 2, 3 and 4 of this Title, and to Sections 1 and 2 of this Chapter.
2. For the purposes of this Section, the term "activities performed in the exercise of governmental authority" referred to in point (f) of Article SERVIN.1.2 [Definitions] means the following²⁹:
 - (a) activities conducted by a central bank or a monetary authority or by any other public entity in pursuit of monetary or exchange rate policies;
 - (b) activities forming part of a statutory system of social security or public retirement plans; and

²⁸ This Article does not apply to intra-European Union roaming services, which are commercial mobile services provided pursuant to a commercial agreement between suppliers of public telecommunications services that enable an end user to use its home mobile handset or other device for voice, data or messaging services in a Member State other than that in which the end user's home public telecommunications network is located.

²⁹ For greater certainty, this modification applies to "services supplied in exercise of governmental authority" in point (o) of Article SERVIN.1.2 [Definitions] as it applies to "activities performed in the exercise of governmental authority" in point (f) of Article SERVIN.1.2 [Definitions].

(c) other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the Party or its public entities.

3. For the purposes of the application of point (f) of Article SERVIN.1.2 [Definitions] to this Section, if a Party allows any of the activities referred to in points (b) or (c) of paragraph 2 of this Article to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier, “activities performed in the exercise of governmental authority” does not include those activities.

4. Point (a) of Article SERVIN.1.2 [Definitions] does not apply to services covered by this Section.

Article SERVIN.5.38: Definitions

For the purposes of this Title:

(a) “financial service” means any service of a financial nature offered by a financial service supplier of a Party and includes the following activities:

(i) insurance and insurance-related services:

(A) direct insurance (including co-insurance):

(aa) life;

(bb) non-life;

(B) reinsurance and retrocession;

(C) insurance intermediation, such as brokerage and agency; and

(D) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;

(ii) banking and other financial services (excluding insurance):

(A) acceptance of deposits and other repayable funds from the public;

(B) lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;

(C) financial leasing;

(D) all payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;

(E) guarantees and commitments;

(F) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:

(aa) money market instruments (including cheques, bills, certificates of deposits);

- (bb) foreign exchange;
 - (cc) derivative products including, but not limited to, futures and options;
 - (dd) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;
 - (ee) transferable securities; and
 - (ff) other negotiable instruments and financial assets, including bullion;
 - (G) 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;
 - (H) money broking;
 - (I) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;
 - (J) settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;
 - (K) provision and transfer of financial information, and financial data processing and related software; and
 - (L) advisory, intermediation and other auxiliary financial services on all the activities listed in points (A) to (K), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;
- (b) "financial service supplier" means any natural or legal person of a Party that seeks to supply or supplies financial services and does not include a public entity;
- (c) "new financial service" means a service of a financial nature including services related to existing and new products or the manner in which a product is delivered, that is not supplied by any financial service supplier in the territory of a Party but which is supplied in the territory of the other Party;
- (d) "public entity" means:
- (i) a government, a central bank or a monetary authority, of a Party, or an entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or
 - (ii) a private entity, performing functions normally performed by a central bank or monetary authority, when exercising those functions;

- (e) "self-regulatory organisation" means any non-governmental body, including a securities or futures exchange or market, clearing agency, other organisation or association, that exercises regulatory or supervisory authority over financial service suppliers by statute or delegation from central, regional or local governments or authorities, where applicable.

Article SERVIN.5.39: Prudential carve-out

1. Nothing in this Agreement shall prevent a Party from adopting or maintaining measures for prudential reasons³⁰, such as:

- (a) the protection of investors, depositors, policy-holders or persons to whom a fiduciary duty is owed by a financial service supplier; or
- (b) ensuring the integrity and stability of a Party's financial system.

2. Where such measures do not conform with the provisions of this Agreement, they shall not be used as a means of avoiding the Party's commitments or obligations under the Agreement.

Article SERVIN.5.40: Confidential information

Without prejudice to Part Three [Law enforcement and judicial cooperation in criminal matters], nothing in this Agreement shall be construed to require a Party to disclose information relating to the affairs and accounts of individual consumers or any confidential or proprietary information in the possession of public entities.

Article SERVIN.5.41: International standards

The Parties shall make their best endeavours to ensure that internationally agreed standards in the financial services sector for regulation and supervision, for the fight against money laundering and terrorist financing and for the fight against tax evasion and avoidance, are implemented and applied in their territory. Such internationally agreed standards are, *inter alia*, those adopted by: the G20; the Financial Stability Board; the Basel Committee on Banking Supervision, in particular its "Core Principle for Effective Banking Supervision"; the International Association of Insurance Supervisors, in particular its "Insurance Core Principles"; the International Organisation of Securities Commissions, in particular its "Objectives and Principles of Securities Regulation"; the Financial Action Task Force; and the Global Forum on Transparency and Exchange of Information for Tax Purposes of the Organisation for Economic Cooperation and Development.

Article SERVIN.5.42: Financial services new to the territory of a Party

1. Each Party shall permit a financial service supplier of the other Party established in its territory to supply any new financial service that it would permit its own financial service suppliers to supply in accordance with its law in like situations, provided that the introduction of the new financial service does not require the adoption of a new law or the amendment of an existing law. This does not apply to branches of the other Party established in the territory of a Party.

2. A Party may determine the institutional and legal form through which the service may be supplied and require authorisation for the supply of the service. Where such authorisation is required,

³⁰ For greater certainty, this shall not prevent a Party from adopting or maintaining measures for prudential reasons in relation to branches established in its territory by legal persons in the other Party.

a decision shall be made within a reasonable time and the authorisation may only be refused for prudential reasons.

Article SERVIN.5.43: Self-regulatory organisations

Where a Party requires membership of, participation in, or access to, any self-regulatory organisation in order for financial service suppliers of the other Party to supply financial services in its territory, the Party shall ensure observance by that self-regulatory organisation of the obligations under Articles SERVIN.2.3 [National treatment], SERVIN.2.4 [Most favoured nation treatment], and SERVIN.3.4 [National treatment] and SERVIN.3.5 [Most favoured nation treatment].

Article SERVIN.5.44: Clearing and payment systems

Under terms and conditions that accord national treatment, each Party shall grant to financial service suppliers of the other Party established in its territory 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 does not confer access to the Party's lender of last resort facilities.

Section 6: International maritime transport services

Article SERVIN.5.45: Scope and definitions

1. This Section applies to measures of a Party affecting the supply of international maritime transport services in addition to Chapters 1, 2, 3, 4 and Section 1 of this Chapter.
2. For the purposes of this Section and Chapters 1, 2, 3 and 4 of this Title:
 - (a) "international maritime transport services" means the transport of passengers or cargo by sea-going vessels between a port of one Party and a port of the other Party or of a third country, or between ports of different Member States, including the direct contracting with providers of other transport services, with a view to covering door-to-door or multimodal transport operations under a single transport document, but does not include the right to provide such other transport services;
 - (b) "door-to-door or multimodal transport operations" means the transport of international cargo using more than one mode of transport, that includes an international sea-leg, under a single transport document;
 - (c) "international cargo" means cargo transported between a port of one Party and a port of the other Party or of a third country, or between ports of different Member States;
 - (d) "maritime auxiliary services" means maritime cargo handling services, customs clearance services, container station and depot services, maritime agency services and, maritime freight forwarding services and storage and warehousing services;
 - (e) "maritime cargo handling services" means activities exercised by stevedore companies, including terminal operators but not including the direct activities of dockers if the workforce is organised independently of the stevedoring or terminal operator companies; the activities covered include the organisation and supervision of:
 - (i) loading or discharging of cargo to or from a ship;