21.   Framework Governing International Payment Orders (IPOs)

(i)   **Definitions:**
   For this framework, the following terms shall have the following meanings:

a)   "Bank" shall mean a Person engaged in and (to the extent applicable) licensed to undertake the business of banking, including (without limitation) a universal bank, savings bank, savings and loan association, credit union, trust company or other financial institution, in each case whether domestic or foreign.

b)   "Beneficiary" shall mean the Person to be paid by (or for whose benefit payment is to be made by) the Beneficiary's Bank.

c)   "Beneficiary's Bank" shall mean the AD/Bank identified in a Payment Order that is to make payment to (or for the benefit of) the applicable beneficiary, whether: (i) via credit to an account of such beneficiary maintained at such AD/Bank, (ii) application to payment of an obligation of such beneficiary with such AD/Bank or (iii) otherwise. A Beneficiary's Bank may be a Receiving Bank of the applicable Payment Order.

d)   "Funds Transfer" shall mean a series of transactions made for the purpose of causing payment to be made to (or for the benefit of) a Beneficiary. A Funds Transfer is initiated by the Originator's issuance of a Payment Order, includes any Payment Order issued by the Originator's Bank and (if applicable) an Intermediary Bank intended to carry out the Originator's Payment Order and is then completed by Acceptance by the Beneficiary's Bank of a Payment Order (whether from the Originator, the Originator's Bank or an Intermediary Bank) instructing that such Beneficiary's Bank make payment to the applicable Beneficiary.
   For the purpose of clarification, a Funds Transfer is one or a series of Payment Orders that, with respect to each Payment Order, create contractual obligations only as to the Sender and Receiving Bank of such Payment Order. Such contractual obligations are not the property of either the Originator (except with respect to its relationship with the applicable Originator's Bank) or the Beneficiary (except with respect to its relationship with the applicable Beneficiary's Bank)[1].

e)   "Funds Transfer Business Day" of a Receiving Bank shall mean the part of a day during which such Receiving Bank is open for the receipt, processing and transmittal of Payment Orders and cancellations and amendments of Payment Orders.

f)   "Intermediary Bank" shall mean a Receiving Bank other than the Originator's Bank or the Beneficiary's Bank.

g)   "Originator" with respect to a Funds Transfer shall mean the Person who sends the first Payment Order in such Funds Transfer.

h)   "Originator's Bank" with respect to a Funds Transfer shall mean: (a) if the applicable Originator, is not a Bank, the Receiving Bank to which the Payment Order of such Originator is issued, or (b) otherwise, the Originator.

i)   "Payment Order" shall mean an electronic or other message in writing (or a recorded oral message) from any Person (the "Sender") to request or instruct a Bank (a "Receiving Bank") to make (or cause to be made) a payment to (or for the benefit of) a Beneficiary (other than such Receiving Bank) of a fixed or determinable amount of money, with respect to which:

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[1] Although elements of this framework follow convention in using the term "funds transfer" to identify payment being made to a Beneficiary, no money or property right of the Originator is actually transferred to the Beneficiary.

i. such message does not state a condition to payment to the applicable Beneficiary other than time of payment,

ii. such Receiving Bank is to be reimbursed (whether by debiting an account of the applicable Sender maintained at such Receiving Bank, being credited funds at an account of such Receiving Bank maintained at the applicable Sender, receipt of cash or otherwise) and

iii. such message is transmitted by the applicable Sender directly to the applicable Receiving Bank or to an agent, funds-transfer system or communication system (such as the system of the Society for Worldwide Interbank Financial Telecommunication (SWIFT) or its successor) for transmittal to such Receiving Bank. Such message may be sent in any manner, including (without limitation): (i) via any Payment Order System, telex or the internet or (ii) using one of the Receiving Bank's forms or electronic portals.

j) "Person" shall mean any natural person or any corporation, company, partnership, joint venture, trust, fund, foundation, estate, unincorporated association, governmental authority or any other entity of whatever nature.

An elaboration of relevant international funds transfer transactions depicting the roles of relevant parties along with examples are placed at **Annexure-A**.

(ii) **Applicability:**

The provisions of this framework are only applicable to Payment Orders with respect to which the applicable Receiving Bank (whether the applicable Originator's Bank, an Intermediary Bank or the applicable Beneficiary's Bank) is incorporated or otherwise organized under the laws of Pakistan and;

a) the applicable Sender (whether the applicable Originator, the applicable Originator's Bank or an Intermediary Bank) is incorporated or otherwise organized under the laws of (or, if a natural person, located in) a jurisdiction other than Pakistan, or

b) the applicable Sender (whether the applicable Originator, the applicable Originator's Bank or an Intermediary Bank) is incorporated or otherwise organized in (or, if a natural person, located in) Pakistan, such Payment Order is denominated in a currency other than Pakistani Rupee and settlement of such Payment Order is to occur outside of Pakistan.

In case of any conflict with any other instructions, regulations, circulars, circular letters, notifications or similar instructions of the State Bank of Pakistan (SBP), the provisions of this framework will supersede. Notwithstanding the above, if a Sender and a Receiving Bank have made an agreement selecting the law of a particular jurisdiction to govern the rights and/or obligations between each other with respect to a particular Payment Order, then such law shall govern such rights and/or obligations (including whether or not such Payment Order has any connection to such jurisdiction).

(iii) **Timing of the Receipt of a Payment Order:**

a) A Payment Order or any communication cancelling or amending a Payment Order shall be considered as received by a Bank when it is duly delivered to such Bank in a format reasonable under the circumstances at the place of business held out by such Bank as the place for receipt by it of such communications. However, in case a Payment Order or such other communication, other than through an automated system provided by such Bank for such purpose, it shall not be considered as received until it has been brought to the attention of the authorized individual, conducting the applicable transaction.

b) If an Execution Date or Payment Date or a day on which a Receiving Bank is required to take action in terms of this framework does not fall on a Funds Transfer Business Day for such Receiving Bank, then the next day that is a Funds Transfer Business Day for such Receiving Bank shall be treated as the applicable date or day, unless the contrary is explicitly stated in this framework.

(iv)   **Acceptance of a Payment Order:**

"Acceptance" under this framework shall mean acceptance of a Payment Order in the manner described below (and terms such as "Accepted" shall have corollary meanings):

a) The Receiving Bank (whether the applicable Originator's Bank) other than the Beneficiary's Bank will be considered to have Accepted a Payment Order when (and only when) it Executes such Payment Order.

b) A Beneficiary's Bank will be considered to have Accepted a Payment Order at the earliest of the following:

  i.   When such Beneficiary's Bank:
       A. pays the applicable Beneficiary as stated in Para viii(e)(i) or (ii) or;
       B. notifies such Beneficiary of such Beneficiary's Bank receipt of such Payment Order (unless such notice indicates that such Beneficiary's Bank is rejecting such Payment Order or that funds with respect to such Payment Order may not be withdrawn or used by such Beneficiary until such Beneficiary's Bank receipt of payment from (or on behalf of) the Sender of such Payment Order) or that the account of such Beneficiary has been credited with withdrawable funds with respect to such Payment Order,

  ii. when such Beneficiary's Bank receives payment of the entire amount payable to it in connection with such Payment Order pursuant to Para viii(c)(i)(A) or, (B), or C, and

  iii. the opening of the next Funds Transfer Business Day of such Beneficiary's Bank after the applicable Payment Date of such Payment Order provided that:
       A. At that time, the amount of such Payment Order is fully covered by a withdrawable credit balance in an account of the applicable Sender maintained at such Beneficiary's Bank or such Beneficiary's Bank has otherwise received full payment from (or on behalf of) the applicable Sender, and
       B. Such Payment Order was not rejected by such Beneficiary's Bank within one hour after such time or, if later, one hour after the opening of the next business day of such Sender following such Payment Date.

However, Acceptance of a Payment Order shall not be considered to have occurred under ii or iii above, if such Receiving Bank is not permitted by law to receive Payment Orders for the applicable Beneficiary.

c) Notwithstanding the above, Acceptance of a Payment Order shall not be considered to have occurred before the Payment Order is received by the Receiving Bank, such as when a Beneficiary's Bank receives payment before it has received the Payment Order.

d) A Receiving Bank that Accepts a Payment Order, is not the agent, trustee, fiduciary or similar of any other Person (including the applicable Sender or Beneficiary of such Payment Order) involved in the applicable Funds Transfer, and such Receiving Bank owes no duty to any such Person except as expressly provided in this framework or by express agreement by such Receiving Bank. In connection therewith, a Receiving Bank: (i) receives payment with respect to a Payment Order that it Accepts (or has a right to receive such payment) from (or behalf of) the applicable Sender only for itself and not as agent, trustee, fiduciary or similar of the applicable Beneficiary or any other Person and (ii) may sell, assign, grant a lien on or otherwise dispose of any or all of such payments and/ or rights, related bank accounts and/ or other related assets, revenues and rights, (with, if such Receiving Bank is a Pakistani Bank, the general or special permission of SBP).

e) Other than as expressly provided in this framework or as has been agreed by the applicable Beneficiary's Bank with the applicable Person, the only obligation of a Beneficiary's Bank that

results from its Acceptance of a Payment Order is to pay the amount of such Payment Order to the applicable Beneficiary in the manner provided in this framework. No obligation is owed by such Beneficiary's Bank to either the Sender of such Payment Order or the Originator of the applicable Funds Transfer. The obligation of such Beneficiary's Bank created by such Acceptance is for the benefit only of such Beneficiary.

(v) **Rejection of Payment Orders:**
   a) A Payment Order shall be considered to have been rejected if the applicable Receiving Bank so notifies the applicable Sender in writing (including electronically). If the applicable Sender is the Originator, the Receiving Bank also may notify such Sender orally.
   b) Acceptance by a Receiving Bank of a Payment Order precludes a later rejection of such Payment Order. Effective rejection by a Receiving Bank of a Payment Order, pursuant to (a) above, precludes a later Acceptance by such Receiving Bank of such Payment Order except to the extent thereafter so agreed with the applicable Sender.

(vi) **Cancellation and Amendment of Payment Orders:**
   a) The Sender of a Payment Order may send an electronic or other message in writing (or a recorded oral message) to the applicable Receiving Bank seeking to cancel or amend such Payment Order. However, such communication will be effective to cancel or amend the Payment Order if it is received at a time and in a manner affording the Receiving Bank a reasonable opportunity to act on such communication before such Receiving Bank Accepts such Payment Order.
   b) After a Payment Order has been Accepted by the applicable Receiving Bank, the applicable Sender's request to cancel or amend such Payment Order will not be effective unless the applicable Receiving Bank agrees thereto.
   c) A Payment Order that has not been Accepted by the applicable Receiving Bank is deemed canceled at the close of the fifth Funds Transfer Business Day of such Receiving Bank after:
      i. the Execution Date of such Payment Order if such Receiving Bank is not the Beneficiary's Bank, and
      ii. otherwise, the Payment Date of such Payment Order.
   d) With respect to a Payment Order that has been effectively cancelled or amended pursuant to the above:
      i. if such Payment Order has not yet been Accepted by the applicable Receiving Bank, then the applicable Receiving Bank cannot thereafter Accept such Payment Order.
      ii. if such Payment Order has already been Accepted by the applicable Receiving Bank, then such Acceptance is nullified and no Person shall have any right or obligation based upon such Acceptance. However, with respect to a Payment Order that has been amended, the Receiving Bank may extend its Acceptance to the amended Payment Order.

(vii) **Execution of a Payment Order:**
   a) A Payment Order is "Executed" by the applicable Receiving Bank when it issues its own Payment Order intended to carry out a Payment Order that it received from a Sender. A Payment Order received by the Beneficiary's Bank can be Accepted but cannot be Executed.
   b) The "Execution Date" of a Payment Order shall mean the day on which the applicable Receiving Bank receives such Payment Order; provided that if such Payment Order:
      i. includes instructions to such Receiving Bank to delay its Execution thereof until a future business day of such Receiving Bank, then such future business day will be the Execution Date of such Payment Order, and
      ii. does not specify such a delayed date but does state a Payment Date, then the Execution Date of such Payment Order will be such date as selected by such Receiving Bank that is no later

than such Payment Date (or, if Execution is reasonably necessary to allow the Beneficiary's Bank to make payment to the applicable Beneficiary on such Payment Date, an earlier date on or after such Receiving Bank's receipt of such Payment Order).

c) If a Receiving Bank Accepts a Payment Order pursuant to (iv)(b) above, then such Receiving Bank has the following obligations in Executing such Payment Order:

   i. Such Receiving Bank is required to issue, on the Execution Date, a Payment Order complying with the applicable Sender's Payment Order and to follow such Sender's instructions in such Payment Order concerning: (i) any Intermediary Bank or Payment Order System to be used in carrying out the Funds Transfer and/or (ii) the manner in which such Receiving Bank's Payment Order is to be transmitted.

   ii. If such Payment Order states a Payment Date, then such Receiving Bank shall transmit its Payment Order at a time and in a manner reasonably determined to allow the Beneficiary's Bank to make payment to the applicable Beneficiary on such Payment Date or as soon thereafter as is reasonably feasible.

(viii) **Payments under a Payment Order:**

a) **Payment Date:** "Payment Date" with respect to a Payment Order shall mean the day on which the amount of such Payment Order is intended to be paid by the applicable Beneficiary's Bank to the applicable Beneficiary. The Payment Date of a Payment Order shall be as specified by the applicable Sender; provided, that:

   i. such Payment Date shall not be considered to be earlier than the Funds Transfer Business Day on which the applicable Payment Order is received by the applicable Beneficiary's Bank, and;

   ii. unless specified in such Payment Order to be a later date, such Payment Date shall be the Funds Transfer Business Day on which such Payment Order is received by such Beneficiary's Bank; provided that such is received by such Beneficiary's Bank before its cut-off time (if received after such cut-off time, then the following Funds Transfer Business Day shall be the Payment Date).

b) **Obligation of a Sender to pay the Receiving Bank:**

   i. With respect to a Payment Order issued to the Beneficiary's Bank, Acceptance of such Payment Order by such Beneficiary's Bank obliges the applicable Sender to pay such Beneficiary's Bank the amount of such Payment Order, which payment is due on the applicable Payment Date.

   ii. With respect to a Payment Order issued to a Receiving Bank other than the Beneficiary's Bank, Acceptance of such Payment Order by such Receiving Bank obliges the applicable Sender to pay such Receiving Bank the amount of such Payment Order, which payment is due on the date on which such Receiving Bank Executes such Payment Order; however, such obligation of such Sender to pay such Receiving Bank is excused if the applicable Funds Transfer is not completed by Acceptance by the applicable Beneficiary's Bank of a Payment Order instructing payment to the applicable Beneficiary.

c) **Payment by a Sender to a Receiving Bank:**

   i. Payment by a Sender of its obligation under (b) above, to pay the applicable Receiving Bank occurs as follows:

      A. If such Sender is a Bank and the applicable Payment Order was transmitted through a Payment Order System, then payment occurs when such Receiving Bank receives final settlement of such obligation through such Payment Order System (including as described in (ii) below).

      B. If such Sender is a Bank and such Sender: (i) credited the applicable amount to an account of such Receiving Bank maintained with such Sender or (ii) caused the applicable

amount to be credited to an account maintained by such Receiving Bank with another Bank, then payment occurs when such credit is withdrawn or, if not withdrawn, at midnight of the day on which such credit is withdrawable and such Receiving Bank learns of that fact.

C. If such Receiving Bank debits the applicable amount from an account that such Sender maintains with the Receiving Bank, then payment occurs when such debit is made to the extent such debit is covered by a withdrawable credit balance in such account.

ii. If a Payment Order is transmitted via a Payment Order System that nets obligations bilaterally and/or multilaterally among participants, then the applicable Receiving Bank receives final settlement when settlement is complete in accordance with the rules of such Payment Order System. The obligation of a Sender to pay the amount of a Payment Order transmitted through a Payment Order System may be satisfied, to the extent permitted by the rules of such Payment Order System, by setting off and applying against such Sender's obligation the right of such Sender to receive payment from the applicable Receiving Bank of the amount of any other Payment Order transmitted to such Sender by such Receiving Bank through such Payment Order System. The aggregate balance of obligations owed by each Sender to each Receiving Bank in a Payment Order System may be satisfied, to the extent permitted by the rules of such Payment Order System, by setting off and applying against that balance the aggregate balance of obligations owed to a Sender by other members of such Payment Order System. The aggregate balance is determined after the right of setoff stated in the second sentence of this paragraph has been exercised.

iii. In a case not covered by (i) above (e.g., payment in cash or a check), the time when payment of a Sender's obligation under (b) above, to pay the applicable Receiving Bank occurs is governed by applicable principles of law that determine when an obligation is satisfied.

d) **Obligation of a Beneficiary's Bank to pay the applicable Beneficiary:**
If a Beneficiary's Bank accepts a Payment Order, then it is required to pay to the applicable Beneficiary an amount equal to the amount of such Payment Order, which payment shall (except to the extent agreed otherwise with such Beneficiary or required by law) be made in the same currency of such Payment Order. Such payment is due to such Beneficiary on the Payment Date of such Payment Order; however, if Acceptance of such Payment Order occurs on the Payment Date at a time that is after the close of the Funds Transfer Business Day of such Beneficiary's Bank, then such payment is due to such Beneficiary on the next Funds Transfer Business Day of such Beneficiary's Bank. Notwithstanding anything else in this paragraph, however, a Beneficiary's Bank need not make such payment to a Beneficiary if such payment shall be prohibited by law.

e) **Payment by a Beneficiary's Bank to the applicable Beneficiary:**
If a Beneficiary's Bank Accepts a Payment Order and:

i. credits an account of the applicable Beneficiary, then payment of such Beneficiary's Bank's obligation under (d) above, occurs when and to the extent: (i) such Beneficiary is notified of the right to withdraw such credit, (ii) such Beneficiary's Bank lawfully applies such credit to a debt of such Beneficiary (whether owing to such Beneficiary's Bank or any other Person) or (iii) funds with respect to such Payment Order are otherwise made reasonably available to such Beneficiary by such Beneficiary's Bank, or

ii. lawfully applies the amount of such Payment Order to a debt of such Beneficiary (whether owing to such Beneficiary's Bank or any other Person), then payment of such Beneficiary's Bank's obligation under (d) above, occurs at the time and to the extent of such application.

Example of a Funds Transfer in this framework:

An example of a Funds Transfer that is covered by this framework is as follows:

X, the obligor of a receivable owed to Y, wants to pay Y for such receivable. Instead of delivering to Y a negotiable instrument such as a check or some other writing such as a credit card slip that enables Y to obtain payment from a bank, X chooses to transmit an instruction to X's bank to credit a sum of money to Y's bank account.

In most cases, X's bank and Y's bank are different banks, in which event X's bank carries out X's instruction by instructing Y's bank to credit Y's account in the amount that X requested. In such a "funds transfer:"

1. The instruction that X issues to its bank is a "Payment Order,"
2. X is the "Originator" of such Funds Transfer and the "Sender" of such Payment Order,
3. X's bank is three things: the "Originator's Bank", the "Receiving Bank" of such Payment Order and the "Sender" of its own "Payment Order" to Y's bank,
4. Y's bank is two things: the "Receiving Bank" of such Payment Order sent by X's bank and the "Beneficiary's Bank," and;
5. Y is the "Beneficiary" of both such Payment Orders.

When X's bank issues a Payment Order to Y's bank to carry out X's Payment Order, X's bank "Executes" X's Payment order. In more complex transactions, there are one or more additional bank(s) known as "Intermediary Banks" between X's bank and Y's bank. In the Funds Transfer, the instruction contained in the original Payment Order of X to its bank is carried out by a series of Payment Orders by each bank in the transmission chain to the next bank in the chain until Y's bank receives a Payment Order to make payment to Y.

In most cases, the Payment order of each bank to the next bank in the chain is transmitted electronically, and often the Payment Order of X to its bank is also transmitted electronically; *however*, the manner of transmission does not have any legal significance and a Payment Order may be transmitted in any manner (e.g., a customer form, mail, telex or e-mail). To reflect this fact, the broader term "Funds Transfer" is used in this framework rather than the narrower term wire transfer.

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[2] These examples are provided in this Framework for Governing International Payment Orders (IPO) for illustrative and demonstrative purposes only. SBP assumes no liability for any errors, omissions, or inaccuracies that may be present or any loss or damage arising from their use.

EXAMPLES

EXAMPLE #1 – SINGLE PAYMENT ORDER

X, which has an account in Bank A, instructs Bank A to pay PKR1,000,000 to Y's account in Bank A. Bank A carries out X's instruction by making a credit of PKR1,000,000 to Y's account and notifying Y that the credit is available for immediate withdrawal. The instruction by X to Bank A is a "Payment Order," which was issued when it was sent by X to Bank A. X is the "Sender" of such Payment Order, Bank A is the "Receiving Bank" of such Payment Order, Y is the "Beneficiary" of such Payment Order and Bank A is the "Beneficiary's Bank" of such Payment Order.

When Bank A notified Y of receipt of such Payment Order, Bank A "Accepted" such Payment Order (Para iv (b)). As a result of such Acceptance: (a) Bank A thereby incurred an obligation to Y to pay the amount of such Payment Order (Para viii (d)) and X incurred an obligation to pay Bank A the amount of X's Payment Order (Para viii (b)). Payment from X to Bank A would frequently (though not necessarily) be made by a debit to X's Authorized Account in Bank A (Para viii c (i) (C)).

Bank A paid Y when it gave notice to Y of a withdrawable credit of PKR1,000,000 to Y's account (Para viii e (i)). The overall transaction, which comprises the acts of X and Bank A, in which X causes payment to be made to Y is referred to as a "Funds Transfer."

In this example, only one Payment Order was involved in the Funds Transfer. A one-Payment Order Funds Transfer is frequently referred to as a "book transfer" because the payment is accomplished by the Receiving Bank's debiting the account of the Sender and crediting the account of the Beneficiary in the same bank. In this Funds Transfer: (a) X, in addition to being the Sender of the Payment Order to Bank A, is the "Originator," and (b) Bank A is the "Originator's Bank" as well as the "Beneficiary's Bank."

EXAMPLE #2 – TWO PAYMENT ORDERS

Assume the same facts as in Example #1 except that X instructs Bank A to pay PKR1,000,000 to Y's account in Bank B. With respect to this Payment Order, X is again the "Sender" and "Originator," Bank A is the "Receiving Bank" and Y is the "Beneficiary."

Bank A carries out (i.e., "Executes") X's Payment Order by sending its own Payment Order to Bank B to credit PKR1,000,000 to Y's account (Para vii (a)), which also constitutes Bank A's "Acceptance" of X's Payment Order (Para iv (a) and Para vii (a)). In this second Payment Order, Bank A is the "Sender," Bank B is the "Receiving Bank" and "Beneficiary's Bank" and Y is the "Beneficiary."

In this example, there are thus two Payment Orders that are involved in this Funds Transfer. In this Funds Transfer, X is the "Originator," Bank A is the "Originator's Bank," Bank B is the "Beneficiary's Bank" and Y is the "Beneficiary."

When Bank A Executed X's Payment Order, X incurred an obligation to pay Bank A the amount of the Payment Order (Para viii (b)(ii)). When Bank B Accepts the Payment Order issued to it by Bank A, Bank B incurs an obligation to Y to pay the amount of the Payment Order (Para viii (d)) and Bank A incurs an obligation to pay Bank B for such Payment Order (Para viii (b)).

EXAMPLE #3 – INTERMEDIARY BANK(S) (THREE OR MORE PAYMENT ORDERS)

Assume the same facts as in Example #2 except that Bank A does not have a correspondent banking relationship with Bank B and thus cannot Execute X's Payment Order by issuing a Payment Order to Bank B. In such scenario, Bank A can Execute X's Payment Order by issuing its own Payment Order to Bank C with instructions to cause PKR1,000,000 to be paid to Y's account in Bank B. With respect to this Payment Order, Bank A is the "Sender," Bank C is the "Receiving Bank" and Y is the "Beneficiary."

Bank C will then Execute the Payment Order it receives from Bank A by issuing its own Payment Order to Bank B to pay PKR1,000,000 to Y's account in Bank B, which also constitutes Bank C's "Acceptance" of the Payment Order it received from Bank A (Para vi (a) and Para vii (a)). With respect to Bank C's Payment Order, Bank C is the "Sender," Bank B is the "Receiving Bank" and "Beneficiary's Bank" and Y is the "Beneficiary."

In this scenario, the Funds Transfer involves three Payment Orders and X is the "Originator," Bank A is the "Originator's Bank," Bank C is an "Intermediary Bank," Bank B is the "Beneficiary's Bank" and Y is the "Beneficiary." In some cases, there might be more than one Intermediary Bank, in which case each such Intermediary Bank would be treated in the same manner as Bank C.

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