

ANNEX III: FINANCIAL SERVICES NON-CONFORMING MEASURES
Schedule for El Salvador

Headnotes

1.- Commitments in these subsectors under the Agreement are undertaken subject to the limitations and conditions set forth in these headnotes and in the schedule below.

2.- To clarify El Salvador's commitment with respect to Article 12.4 of the Agreement (Market Access), juridical persons supplying financial services and constituted under the laws of El Salvador are subject to non-discriminatory limitations on juridical form.¹

¹ For example, partnerships and sole proprietorships are not acceptable juridical forms for depository financial institutions in El Salvador. This headnote is not itself intended to affect, or otherwise limit, a choice by a financial institution of another Party between branches or subsidiaries.

ANNEX III: FINANCIAL SERVICES NON-CONFORMING MEASURES
Schedule for El Salvador, Section A

Sector:	Financial services: All insurance and insurance-related services
Obligations Concerned :	National treatment (Article 11.2) Most-favored-nation treatment (Article 12.3) Market Access (Article 12.4)
Measures :	<i>Ley de Sociedades de Seguros, Artículos 1, 6, 41 y 111</i> <i>Reglamento de la Ley de Sociedades de Seguros, Artículo 29</i>
Description :	Insurance companies must be legally incorporated in El Salvador. Not later than 3 years after the date of entry into force of the Agreement, El Salvador shall permit foreign insurance companies to establish branches. ² For an enterprise to be established under Salvadorian law, at least 75% of its shares must be owned jointly or severally by: a) Salvadorian natural persons or natural persons of Guatemala, Nicaragua, Honduras or Costa Rica; b) Enterprises organized under Salvadorian law whose majority, shareholders or partners are Salvadorian natural persons or natural persons of Guatemala, Nicaragua, Honduras or Costa Rica; c) Guatemalan, Nicaraguan, Honduran, Costa Rican insurance or reinsurance companies; d) Foreign insurance and reinsurance companies with a first rate Classification by an internationally recognized classification Institution (e.g. Moody's, A.M. Best or S&P.)

² El Salvador may require that the branch owners or shareholders meet the solvency and integrity requirements established in El Salvador's insurance legislation.

ANNEX III: FINANCIAL SERVICES NON-CONFORMING MEASURES
Schedule for El Salvador, Section A

Sector:	Financial services: Banking services
Obligations Concerned:	National treatment (Article 12.2) Most-favored-nation treatment (Article 12.3) Market Access (Article 12.4)
Measures :	<i>Ley de Bancos, Artículos 5, 10, 26, 27 y 150</i>
Description :	<p>Banks incorporated in El Salvador shall be organized and operate as corporations with fixed capital broken down into registered shares and with no fewer than ten partners.</p> <p>At least fifty-one per cent of the shares in banks legally incorporated in El Salvador shall be owned by any of the following types of investor:</p> <ul style="list-style-type: none">a) Salvadorian or Central American natural persons;b) Salvadorian legal persons whose majority shareholders or partners are: Salvadorian or Central American natural persons or other Salvadorian legal persons whose majority shareholders or partners must be Salvadorian or Central American natural persons;c) Central American banks which have prudential regulation and supervision in their countries of origin, in accordance with relevant international practice, which have been approved by internationally recognized risk classification entities and which fully comply with the legal provisions and guidelines in force in those countries;d) Banks and other foreign financial institutions which have been approved by internationally recognized risk classification entities as first-rate institutions and which meet other prudential requirements specified in the Information Annex. Also, holding companies and other foreign financial institutions which fulfill the requirements previously indicated in this paragraph. <p>Foreign bank branches shall be part of a bank meeting the requirements of paragraph c or d above.</p> <p>The operations of foreign branches in El Salvador are limited by their capital in El Salvador.</p> <p>Salvadorian banks in which over fifty per cent of the shares are owned by foreign banks or financial conglomerates shall only share names, assets or infrastructure or offer joint services to the public with other companies of the same foreign conglomerate as laid down in the Banking Law.</p>

ANNEX III: FINANCIAL SERVICES NON-CONFORMING MEASURES
Schedule for El Salvador, Section A

Sector:	Financial services: Savings and Credit Institutions and Cooperatives
Obligation Concerned:	National treatment (Article 12.2) Most-favored-nation treatment (Article 12.3) Market Access (Article 12.4)
Measures :	<i>Ley de Intermediarios Financieros no Bancarios, Artículo 155 y 157</i> <i>Ley de Bancos, Artículo 10</i> <i>Ley General de Asociaciones Cooperativas, Artículos 1 y 16</i> <i>Código de Comercio, Artículo 17</i>
Description :	Savings and credit institutions shall be subject to the same ownership requirements as set forth for banks in item SV-2. Savings and credit institutions and Cooperatives must be incorporated in El Salvador. The share ownership limit set forth in Article 10 of the Banking Law shall not apply to foreign not-for-profit foundations and associations with legal personality extended , according to the laws of their countries of origin, and duly inscribed in the Ministry of the Interior's Register of Foundations and Associations, pursuant to the Law on Foundations and Associations of El Salvador.

ANNEX III: FINANCIAL SERVICES NON-CONFORMING MEASURES
Schedule for El Salvador, Section A

Sector:	Financial services: Bureaux de change
Obligations Concerned:	National treatment (Article 12.2) Market Access (Article 12.4)
Measures :	<i>Ley de Casas de Cambio de Moneda Extranjera, Artículo 4</i>
Description :	Bureaux de change must be incorporated in El Salvador. The shares of the Bureaux de change shall be the property of national financial institutions or Salvadorian natural persons or legal persons comprising exclusively Salvadorians.

ANNEX III: FINANCIAL SERVICES NON-CONFORMING MEASURES
Schedule for El Salvador, Section A

Sector:	Pension Funds Services
Obligations Concerned:	National treatment (Article 12.2) Most-favored-nation treatment (Article 12.3) Market Access (Article 12.4)
Measures :	<i>Ley del Sistema de Ahorro para Pensiones, Artículo 23 y 29</i>
Description :	Institutions which manage pension funds must be incorporated in El Salvador. The shares of these pension fund managers, shall be owned by the following persons who, severally or jointly, shall account for at least fifty percent of the capital: a) Salvadorian or Central American natural persons; b) Salvadorian legal persons whose majority shareholders are such natural persons as mentioned in the previous subparagraph; c) foreign pension fund managers with three years experience in the field; and d) international financial entities and related investment institutions in which the Salvadorian Central Reserve Bank has holdings.

ANNEX III: FINANCIAL SERVICES NON-CONFORMING MEASURES
Schedule for El Salvador, Section A

Sector: Financial services: Securities market services

Obligations Concerned: National treatment (Article 12.2)
Most favored nation treatment (Article 12.3)
Market Access (Article 12.4)
Senior Management and Boards of Directors (Article 12.8)

Measures : *Ley del Mercado de Valores, Artículos 21, 30, 56 y 58*

Description : The directors or administrators of stock exchanges, as well as the members of the board of directors of brokerage firms, shall comply with the following requirements, in addition to prudential measures: be Salvadorian or Central American and in the case of other foreigners, have resided in the country for, at least, three years.

Stock exchanges and brokerage firms must be incorporated in El Salvador.

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ANNEX III: FINANCIAL SERVICES NON-CONFORMING MEASURES
Schedule for El Salvador, Section A

Sector:	All Financial services
Obligations Concerned:	National treatment (Article 12.2) Senior Management and Boards of Directors (Article 12.8)
Measures :	<i>Ley del Bancos, Artículo 156</i> <i>Ley del Banco de Fomento Agropecuario, Artículo 14</i>
Description :	The Fomento Agropecuario Bank will not be member of the Deposits Guarantee Institute. The members of the Board of Directors of the bank must be Salvadoran by birth or naturalization.

ANNEX III: FINANCIAL SERVICES NON-CONFORMING MEASURES
Schedule for El Salvador, Section A

Sector:	All Financial services
Obligations Concerned:	Most favored nation treatment (Article 12.3)
Measures :	<i>Tratado de Libre Comercio entre Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua y Panamá</i> <i>Tratado de Libre Comercio entre Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua y República Dominicana</i> <i>As set out in the Description element.</i>
Description :	Panama and Dominican Republic may be treated as Central American countries for the purposes of the Financial Services Chapter.

ANNEX III: FINANCIAL SERVICES NON-CONFORMING MEASURES
Schedule for El Salvador, Section B

Sector: Financial Services

Obligations Concerned: Market Access (Article 12.4)

Description: Financial Services

El Salvador reserves the right to adopt **or maintain** measures requiring the incorporation of foreign financial institutions, other than those seeking to operate as banks or insurance companies within El Salvador.