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**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**February 25, 2004**

**Chapter Twelve**

**Financial Services**

**Article 12.1: Scope and Coverage**

1. This Chapter applies to measures adopted or maintained by a Party relating to:
  - (a) financial institutions of another Party;
  - (b) investors of another Party, and investments of such investors, in financial institutions in the Party's territory; and
  - (c) cross-border trade in financial services.
  
2. Chapters Eleven (Cross-Border Trade in Services) and Ten (Investment) apply to measures described in paragraph 1 only to the extent that such Chapters or Articles of such Chapters are incorporated into this Chapter.
  - (a) Articles 10.7 (Expropriation and Compensation), 10.8 (Transfers), 10.12 (Denial of Benefits), 10.14 (Special Formalities and Information Requirements), and 11.12 (Denial of Benefits) are hereby incorporated into and made a part of this Chapter.
  - (b) Section B of Chapter Ten (Investor-State Dispute Settlement) is hereby incorporated into and made a part of this Chapter solely for claims that a Party has breached Articles 10.7, 10.8, 10.12, or 10.14, as incorporated into this Chapter.
  - (c) Article 11.10 (Transfers and Payments), is incorporated into and made a part of this Chapter to the extent that cross-border trade in financial services is subject to obligations pursuant to Article 12.5 (Cross-Border Trade in Financial Services).
  
3. This Chapter does not apply to measures adopted or maintained by a Party relating to:
  - (a) activities or services forming part of a public retirement plan or statutory system of social security; or
  - (b) activities or services conducted for the account or with the guarantee or using the financial resources of the Party, including its public entities,

except that this Chapter shall apply if a Party allows any of the activities or services referred to in subparagraphs (a) or (b) to be conducted by its financial institutions in competition with a public entity or a financial institution.

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**Article 12.2: National Treatment**

1. Each Party shall accord to investors of another Party treatment no less favorable than that it accords to its own investors, in like circumstances, with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of financial institutions and investments in financial institutions in its territory.
2. Each Party shall accord to financial institutions of another Party and to investments of investors of another Party in financial institutions treatment no less favorable than that it accords to its own financial institutions, and to investments of its own investors in financial institutions, in like circumstances, with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of financial institutions and investments.
3. For purposes of the national treatment obligations in Article 12.5.1 (Cross-Border Trade), a Party shall accord to cross-border financial service suppliers of another Party treatment no less favorable than that it accords to its own financial service suppliers, in like circumstances, with respect to the supply of the relevant service.

**Article 12.3: Most-Favored-Nation Treatment**

1. Each Party shall accord to investors of another Party, financial institutions of another Party, investments of investors in financial institutions, and cross-border financial service suppliers of another Party treatment no less favorable than that it accords to the investors, financial institutions, investments of investors in financial institutions and cross-border financial service suppliers of any other Party or of a non-Party, in like circumstances.
2. A Party may recognize prudential measures of another Party or of a non-Party in the application of measures covered by this Chapter. Such recognition may be:
  - (a) accorded unilaterally;
  - (b) achieved through harmonization or other means; or
  - (c) based upon an agreement or arrangement with another Party or a non-Party.
3. A Party according recognition of prudential measures under paragraph 2 shall provide adequate opportunity to another Party to demonstrate that circumstances exist in which there are or would be equivalent regulation, oversight, implementation of regulation, and, if appropriate, procedures concerning the sharing of information between the Parties.
4. Where a Party accords recognition of prudential measures under paragraph 2(c) and the circumstances set out in paragraph 3 exist, the Party shall provide adequate

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opportunity to another Party to negotiate accession to the agreement or arrangement, or to negotiate a comparable agreement or arrangement.

**Article 12.4: Market Access for Financial Institutions**

A Party shall not adopt or maintain, with respect to investors in financial institutions of another Party, either on the basis of a regional subdivision or on the basis of its entire territory, measures that:

- (a) impose limitations on
  - (i) the number of financial institutions whether in the form of numerical quotas, monopolies, exclusive service suppliers, or the requirements of an economic needs test;
  - (ii) the total value of financial service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
  - (iii) the total number of financial service operations or on the total quantity of financial services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;
  - (iv) the total number of natural persons that may be employed in a particular financial service sector or that a financial institution may employ and who are necessary for, and directly related to, the supply of a specific financial service in the form of a numerical quota or the requirement of an economic needs test; or
- (b) restrict or require specific types of legal entity or joint venture through which a financial institution may supply a service.

**Article 12.5: Cross-Border Trade**

1. Each Party shall permit, under terms and conditions that accord national treatment, cross-border financial service suppliers of another Party to supply the services specified in Annex 12.5.1.

2. Each Party shall permit persons located in its territory, and its nationals wherever located, to purchase financial services from cross-border financial service suppliers of another Party located in the territory of the other Party or of another Party. This obligation does not require a Party to permit such suppliers to do business or solicit in its territory. Each Party may define “doing business” and “solicitation” for purposes of this obligation, as long as such definitions are not inconsistent with paragraph 1.

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3. Without prejudice to other means of prudential regulation of cross-border trade in financial services, a Party may require the registration of cross-border financial service suppliers of another Party and of financial instruments.

**Article 12.6: New Financial Services<sup>1</sup>**

Each Party shall permit a financial institution of another Party to supply any new financial service that the Party would permit its own financial institutions, in like circumstances, to supply without additional legislative action by the Party. Notwithstanding Article 12.4(b), a Party may determine the institutional and juridical form through which the new financial service may be supplied and may require authorization for the supply of the service. Where a Party requires such authorization of the new financial service, a decision shall be made within a reasonable time and the authorization may only be refused for prudential reasons.

**Article 12.7: Treatment of Certain Information**

Nothing in this Chapter requires a Party to furnish or allow access to:

- (a) information related to the financial affairs and accounts of individual customers of financial institutions or cross-border financial service suppliers; or
- (b) any confidential information, the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or prejudice legitimate commercial interests of particular enterprises.

**Article 12.8: Senior Management and Boards of Directors**

1. A Party may not require financial institutions of another Party to engage individuals of any particular nationality as senior managerial or other essential personnel.
2. A Party may not require that more than a minority of the board of directors of a financial institution of another Party be composed of nationals of the Party, persons residing in the territory of the Party, or a combination thereof.

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<sup>1</sup> The Parties understand that nothing in Article 12.6 prevents a financial institution of a Party from applying to another Party to consider authorizing the supply of a financial service that is not supplied in the territory of any Party. Such application shall be subject to the law of the Party to which the application is made and, for greater certainty, shall not be subject to the obligations of Article 12.6.

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**Article 12.9: Non-Conforming Measures**

1. Articles 12.2, 12.3., 12.4, 12.5 and 12.8 do not apply to:
  - (a) any existing non-conforming measure that is maintained by a Party at
    - (i) the central level of government, as set out by that Party in its Schedule to Annex III,
    - (ii) a regional level of government, as set out by that Party in its Schedule to Annex III, or
    - (iii) a local level of government;
  - (b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or
  - (c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 12.2, 12.3, 12.4, or 8.
2. Annex 12.9.2 sets out certain specific commitments by each Party.
3. Annex 12.9.3 sets out, solely for purposes of transparency, supplementary information regarding certain aspects of financial services measures of a Party that the Party considers are not inconsistent with its obligations under this Chapter.
4. Articles 12.2, 12.3, 12.4, 12.5, and 12.8 do not apply to any measure that a Party adopts or maintains with respect to sectors, subsectors, or activities, as set out in its Schedule to Annex III (Future Measures).
5. A non-conforming measure set out in a Party's Schedule to Annex or as a measure to which Articles 10.3 (National Treatment), 10.4 (Most-Favored-Nation Treatment), 11.2 (National Treatment), 11.3 (Most-Favored-Nation Treatment), and 11.4 (Market Access) does not apply shall be treated as a non-conforming measure described in paragraph 1(a) to which Articles 12.2, 12.3, or 12.4, as the case may be, does not apply, to the extent that the measure, sector, sub-sector or activity set out in the schedule of non-conforming measures is covered by this Chapter.

**Article 12.10: Exceptions**

1. Notwithstanding any other provision of this Chapter or Chapters Ten, Thirteen or Fourteen (Electronic-Commerce, and Telecommunications), including specifically Article 13.16 (Relationship to Other Chapters), and in addition Article 11.1.3 (Scope and Coverage) with respect to the supply of financial services in the territory of a Party by an investor of another Party or covered investment, as defined by Chapter Ten, a Party shall

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not be prevented from adopting or maintaining measures for prudential reasons,<sup>2</sup> including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial institution or cross-border financial service supplier, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of this Agreement referred to in this paragraph, they shall not be used as a means of avoiding the Party's commitments or obligations under such provisions.

2. Nothing in this Chapter or Chapters Ten, Thirteen, or Fourteen (Investment, Electronic-Commerce and Telecommunications), including specifically Article 13.16 (Relationship to Other Chapters), and in addition Article 11.1.3 (Scope and Coverage) with respect to the supply of financial services in the territory of a Party by an investor of another Party or covered investment, as defined by the Investment Chapter, applies to non-discriminatory measures of general application taken by any public entity in pursuit of monetary and related credit policies or exchange rate policies. This paragraph shall not affect a Party's obligations under Article 10.9 (Performance Requirements) with respect to measures covered by Chapter Ten (Investment), or under Articles 10.8 (Transfers) or 11.10 (Transfers and Payments).

3. Notwithstanding Articles 10.8 (Transfers) or 11.10 (Transfers and Payments), as incorporated into this Chapter, a Party may prevent or limit transfers by a financial institution or cross-border financial service supplier to, or for the benefit of, an affiliate of or person related to such institution or supplier, through the equitable, non-discriminatory and good faith application of measures relating to maintenance of the safety, soundness, integrity or financial responsibility of financial institutions or cross-border financial service suppliers. This paragraph does not prejudice any other provision of this Agreement that permits a Party to restrict transfers.

4. For greater certainty, nothing in this Chapter shall be construed to prevent the adoption or enforcement by any Party of measures necessary to secure compliance with laws or regulations that are not inconsistent with this Chapter, including those relating to the prevention of deceptive and fraudulent practices or to deal with the effects of a default on financial services contracts, subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on investment in financial institutions or cross-border trade in financial services.

**Article 12.11: Transparency**

1. The Parties recognize that transparent regulations and policies governing the activities of financial institutions and cross-border financial service suppliers are important in facilitating both access of foreign financial institutions and foreign cross-

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<sup>2</sup> It is understood that the term "prudential reasons" includes the maintenance of the safety, soundness, integrity or financial responsibility of individual financial institutions or cross-border financial service suppliers.

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border financial service suppliers to, and their operations in, another Party's markets. Each Party commits to promote regulatory transparency in financial services.

2. In lieu of Article 18.2 (Publication), each Party shall, to the extent practicable,
  - (a) publish in advance any regulations of general application relating to the subject matter of this Chapter that it proposes to adopt; and
  - (b) provide interested persons and Parties a reasonable opportunity to comment on such proposed regulations.
3. At the time it adopts final regulations, a Party should, to the extent practicable, address in writing substantive comments received from interested persons with respect to the proposed regulations.
4. To the extent practicable, each Party should allow reasonable time between publication of final regulations and their effective date.
5. Each Party shall ensure that the rules of general application adopted or maintained by self-regulatory organizations of the Party are promptly published or otherwise made available in such a manner as to enable interested persons to become acquainted with them.
6. Each Party shall maintain or establish appropriate mechanisms that will respond to inquiries from interested persons regarding measures of general application covered by this Chapter.
7. Each Party's regulatory authorities shall make available to interested persons their requirements, including any documentation required, for completing applications relating to the supply of financial services.
8. On the request of an applicant, the regulatory authority shall inform the applicant of the status of its application. If such authority requires additional information from the applicant, it shall notify the applicant without undue delay.
9. A regulatory authority shall make an administrative decision on a completed application of an investor in a financial institution, a financial institution or a cross-border financial service supplier of another Party relating to the supply of a financial service within 120 days, and shall promptly notify the applicant of the decision. An application shall not be considered complete until all relevant hearings are held and all necessary information is received. Where it is not practicable for a decision to be made within 120 days, the regulatory authority shall notify the applicant without undue delay and shall endeavor to make the decision within a reasonable time thereafter.

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**Article 12.12: Self-Regulatory Organizations**

Where a Party requires a financial institution or a cross-border financial service supplier of another Party to be a member of, participate in, or have access to, a self-regulatory organization to provide a financial service in or into the territory of that Party, the Party shall ensure observance of the obligations of Articles 12.2 and 12.3 by such self-regulatory organization.

**Article 12.13: Payment and Clearing Systems**

Under terms and conditions that accord national treatment, each Party shall grant to financial institutions of another 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 paragraph is not intended to confer access to the Party's lender of last resort facilities.

**Article 12.14: Domestic Regulation**

Except with respect to non-conforming measures listed in its schedule to Annex III , each Party shall ensure that all measures of general application to which this Chapter applies are administered in a reasonable, objective and impartial manner.

**Article 12.15: Expedited Availability of Insurance Services**

The Parties recognize the importance of maintaining and developing regulatory procedures to expedite the offering of insurance services by licensed suppliers.

**Article 12.16: Financial Services Committee**

1. The Parties hereby establish a Financial Services Committee. The principal representative of each Party shall be an official of the Party's authority responsible for financial services set out in Annex 12.16.1.
2. The Committee shall:
  - (a) supervise the implementation of this Chapter and its further elaboration;
  - (b) consider issues regarding financial services that are referred to it by a Party; and
  - (c) participate in the dispute settlement procedures in accordance with Article 12.19.
3. The Committee shall meet annually, or as otherwise agreed, to assess the functioning of this Agreement as it applies to financial services. The Committee shall inform the Commission established under Article 19.1 (The Free Trade Commission) of the results of each meeting.

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**Article 12.17: Consultations**

1. A Party may request consultations with another Party regarding any matter arising under this Agreement that affects financial services. The other Party shall give sympathetic consideration to the request. The consulting Parties shall report the results of their consultations to the Committee.
2. Consultations under this Article shall include officials of the authorities specified in Annex 12.16.1.
3. Nothing in this Article shall be construed to require regulatory authorities participating in consultations under paragraph 1 to disclose information or take any action that would interfere with specific regulatory, supervisory, administrative, or enforcement matters.
4. Nothing in this Article shall be construed to require a Party to derogate from its relevant law regarding sharing of information among financial regulators or the requirements of an agreement or arrangement between financial authorities of the Parties.

**Article 12.18: Dispute Settlement**

1. Section A (Dispute Settlement) of Chapter Twenty applies as modified by this Article to the settlement of disputes arising under this Chapter.
2. The Parties shall establish within six months of the entry into force of this Agreement, and maintain a roster of up to 30 individuals who are willing and able to serve as financial services panelists. Unless the Parties otherwise agree, the roster shall include up to 6 individuals who are not nationals of the Parties. The roster members shall be appointed by consensus and may be reappointed. Once established, a roster shall remain in effect for a minimum of three years, and shall remain in effect thereafter until the Parties constitute a new roster. The Parties may appoint a replacement where a roster member is no longer available to serve.
3. Financial services roster members, as well as financial services panelists, shall:
  - (a) have expertise or experience in financial services law or practice, which may include the regulation of financial institutions;
  - (b) be chosen strictly on the basis of objectivity, reliability and sound judgment; and
  - (c) meet the qualifications set out in Article 20.8 (Qualifications of Panelists).

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4. When a Party claims that a dispute arises under this Chapter, Article 20.9 (Panel Selection) shall apply, except that:
- (a) where the disputing Parties so agree, the panel shall be composed entirely of panelists meeting the qualifications in paragraph 3; and
  - (b) in any other case,
    - (i) each disputing Party may select panelists meeting the qualifications set out in paragraph 3 or Article 20.8 (Qualifications of Panelists), and
    - (ii) if the Party complained against invokes Article 12.10, the chair of the panel shall meet the qualifications set out in paragraph 3, unless the disputing Parties agree otherwise.
5. Notwithstanding Article 20.16 (Non-implementation), where a panel finds a measure to be inconsistent with this Agreement and the measure under dispute affects:
- (a) only the financial services sector, the complaining Party may suspend benefits only in the financial services sector;
  - (b) the financial services sector and any other sector, the complaining Party may suspend benefits in the financial services sector that have an effect equivalent to the effect of the measure in the Party's financial services sector; or

only a sector other than the financial services sector, the complaining Party may not suspend benefits in the financial services sector.

**Article 12.19: Investment Disputes in Financial Services**

1. Where an investor of one Party submits a claim under Section B (Investor-State Dispute Settlement) of Chapter Ten against another Party and the respondent invokes Article 12.10, on request of the respondent, the tribunal shall refer the matter in writing to the Financial Services Committee for a decision. The tribunal may not proceed pending receipt of a decision or report under this Article.
2. In a referral pursuant to paragraph 1, the Financial Services Committee shall decide the issue of whether and to what extent Article 12.10 (Exceptions) is a valid defense to the claim of the investor. The Committee shall transmit a copy of its decision to the tribunal and to the Commission. The decision shall be binding on the tribunal.
3. Where the Financial Services Committee has not decided the issue within 60 days of the receipt of the referral under paragraph 1, the respondent or the Party of the claimant may request the establishment of a panel under Section B (State-to-State Dispute Settlement) of Chapter Twenty. The panel shall be constituted in accordance

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with Article 12.18 (Dispute Settlement). The panel shall transmit its final report to the Committee and to the tribunal. The report shall be binding on the tribunal.

4. Where no request for the establishment of a panel pursuant to paragraph 3 has been made within 10 days of the expiration of the 60-day period referred to in paragraph 3, a tribunal may proceed to decide the matter.

5. For purposes of this Article, tribunal means a tribunal established pursuant to Article 10.9 (Selection of Arbitrators).

**Article 20: Definitions**

For purposes of this Chapter:

**cross-border financial service supplier of a Party** means a person of a Party that is engaged in the business of supplying a financial service within the territory of the Party and that seeks to supply or supplies a financial service through the cross-border supply of such services;

**cross-border trade in financial services** or **cross-border supply of financial services** means the supply of a financial service:

- (a) from the territory of one Party into the territory of another Party,
- (b) in the territory of one Party by one person of that Party to a person of another Party, or
- (c) by a national of one Party in the territory of another Party,

but does not include the supply of a service in the territory of a Party by an investment in that territory;

**financial institution** means any financial intermediary or other enterprise that is authorized to do business and regulated or supervised as a financial institution under the law of the Party in whose territory it is located;

**financial institution of another Party** means a financial institution, including a branch, located in the territory of a Party that is controlled by persons of another Party;

**financial service** means any service of a financial nature. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance), as well as services incidental or auxiliary to a service of a financial nature. Financial services include the following activities:

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*Insurance and insurance-related services*

- (a) Direct insurance (including co-insurance):
  - (i) life
  - (ii) non-life
- (b) Reinsurance and retrocession;
- (c) Insurance intermediation, such as brokerage and agency;
- (d) Service auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.

*Banking and other financial services (excluding insurance)*

- (e) Acceptance of deposits and other repayable funds from the public;
- (f) Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transactions;
- (g) Financial leasing;
- (h) All payment and money transmission services, including credit, charge and debit cards, travelers checks and bankers drafts;
- (i) Guarantees and commitments;
- (j) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:
  - (i) money market instruments (including checks, bills, certificates of deposits);
  - (ii) foreign exchange;
  - (iii) derivative products including, but not limited to, futures and options;
  - (iv) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;
  - (v) transferable securities;
  - (vi) other negotiable instruments and financial assets, including bullion;

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- (k) 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;
- (l) Money broking;
- (m) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;
- (n) Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;
- (o) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;
- (p) Advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (e) through (o), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

**financial service supplier of a Party** means a person of a Party that is engaged in the business of supplying a financial service within the territory of that Party;  
investment means “investment” as defined in Article 10.28 (Definitions), except that, with respect to “loans” and “debt instruments” referred to in that Article:

- (a) a loan to or debt instrument issued by a financial institution is an investment only where it is treated as regulatory capital by the Party in whose territory the financial institution is located; and
- (b) a loan granted by or debt instrument owned by a financial institution, other than a loan to or debt instrument of a financial institution referred to in subparagraph (a), is not an investment;

For greater certainty, a loan granted by or debt instrument owned by a cross-border financial service supplier, other than a loan to or debt instrument issued by a financial institution, is an investment if such loan or debt instrument meets the criteria for investments set out in Article 10.28 (Definitions).

**investor of a Party** means a Party or state enterprise thereof, or a person of a Party, that attempts to make, is making, or has made an investment in the territory of another Party; provided, however, that a natural person who is a dual national shall be deemed to be exclusively a national of the State of his/her dominant and effective nationality;

**levels of government**

**central level** means

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for the United States, the federal level, and

for [            ];

**regional level** means

for the United States, the 50 states, the District of Columbia and Puerto Rico, and

[            ];

**new financial service** means a financial service not supplied in the Party's territory that is supplied within the territory of another Party, and includes any new form of delivery of a financial service or the sale of a financial product that is not sold in the Party's territory;

**person of a Party** means "person of a Party" as defined in Article 2.1 (General Definitions) and, for greater certainty, does not include a branch of an enterprise of a non-Party;

**public entity** means a central bank or monetary authority of a Party, or any financial institution owned or controlled by a Party;

**self-regulatory organization** means any non-governmental body, including any securities or futures exchange or market, clearing agency, other organization or association, that exercises its own or delegated regulatory or supervisory authority over financial service suppliers or financial institutions.

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**Annex 12.5.1: Cross-Border Trade**

*Insurance and insurance-related services*

*El Salvador*

1. For El Salvador, Article 12.5.1 applies to the cross-border supply of or trade in financial services as defined in subparagraph (a) of the definition of cross-border supply of financial services in Article 20 with respect to:

- (a) insurance of risk 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; and
  - (ii) goods in international transit;
- (b) reinsurance and retrocession
- (c) brokerage of insurance risks relating to paragraphs (a) and (b).
- (d) consultancy, risk assessment, actuarial and claims settlement services.

2. For El Salvador, Article 12.5.1 applies to the cross-border supply of or trade in financial services as defined in subparagraph (c) of the definition of cross-border supply of financial services in Article 20 with respect to insurance services.<sup>3</sup>

*Guatemala*

1. For Guatemala, Article 12.5.1 applies to the cross-border supply of or trade in financial services as defined in subparagraph (a) of the definition of cross-border supply of financial services in Article 12.20 with respect to:

- (a) insurance of risk 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; and
  - (ii) goods in international transit;

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<sup>3</sup> It is understood that the commitment for cross-border movement of persons is limited to those insurance and insurance-related services listed in paragraph 1.

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- (b) reinsurance and retrocession
  - (c) insurance intermediation such as brokerage and agency only for the services indicated in paragraphs (a) and (b).
  - (d) services auxiliary to insurance as referred to in subparagraph (d) of the definition of financial services.
2. For Guatemala, Article 12.5.1 applies to the cross-border supply of or trade in financial services as defined in subparagraph (c) of the definition of cross-border supply of financial services in Article 12.20 with respect to insurance services.<sup>4</sup>

*Honduras*

1. For Honduras, Article 12.5.1 applies to the cross-border supply of or trade in financial services as defined in subparagraph (a) of the definition of cross-border supply of financial services in Article 12.20 with respect to:
- (a) insurance of risk 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; and
    - (ii) goods in international transit;
  - (b) reinsurance and retrocession
  - (c) insurance intermediation such as brokerage and agency only for the services indicated in paragraphs (a) and (b).
  - (d) services auxiliary to insurance as referred to in subparagraph (d) of the definition of financial services.
2. For Honduras, Article 12.5.1 applies to the cross-border supply of or trade in financial services as defined in subparagraph (c) of the definition of cross-border supply of financial services in Article 20 with respect to insurance services.<sup>5</sup>

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<sup>4</sup> It is understood that the commitment for cross-border movement of persons is limited to those insurance and insurance-related services listed in paragraph 1.

<sup>5</sup> It is understood that the commitment for cross-border movement of persons is limited to those insurance and insurance-related services listed in paragraph 1.

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*Nicaragua*

1. For Nicaragua, Article 12.5.1 applies to the cross-border supply of or trade in financial services as defined in subparagraph (a) of the definition of cross-border supply of financial services in Article 12.20 with respect to:

- (a) insurance of risk 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; and
  - (ii) goods in international transit;
- (b) reinsurance and retrocession
- (c) insurance intermediation such as brokerage and agency only for the services indicated in paragraphs (a) and (b).
- (d) services auxiliary to insurance as referred to in subparagraph (d) of the definition of financial services.

2. For Nicaragua, Article 12.5.1 applies to the cross-border supply of or trade in financial services as defined in subparagraph (c) of the definition of cross-border supply of financial services in Article 12.20 with respect to insurance services.<sup>6</sup>

*United States*

1. For the United States, Article 12.5.1 applies to the cross-border supply of or trade in financial services as defined in subparagraph (a) of the definition of cross-border supply of financial services in Article 12.20 with respect to:

- (a) insurance of risk 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; and
  - (ii) goods in international transit;
- (b) reinsurance and retrocession, services auxiliary to insurance as referred to in subparagraph (d) of the definition of financial service, and insurance

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<sup>6</sup> It is understood that the commitment for cross-border movement of persons is limited to those insurance and insurance-related services listed in paragraph 1.

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intermediation such as brokerage and agency as referred to in subparagraph (c) of the definition of financial service.

2. For the United States, Article 12.5.1 applies to the cross-border supply of or trade in financial services as defined in subparagraph (c) of the definition of cross-border supply of financial services in Article 12.20 with respect to insurance services.

*Banking and other financial services (excluding insurance)*

1. El Salvador shall undertake the obligations of Article 12.5.1 with respect to:
- (a) provision and transfer of financial information as described in subparagraph (o) of the definition of financial service.
  - (b) financial data processing as described in subparagraph (o) of the definition of financial service, subject to prior authorization from the relevant regulator, when it is required.<sup>7</sup>
  - (c) advisory and other auxiliary financial services, excluding intermediation, relating to banking and other financial services as described in subparagraph (p) of the definition of financial service.<sup>8</sup>
2. Guatemala shall undertake the obligations of Article 12.5.1 with respect to the provision and transfer of financial information and financial data processing and related software as referred to in subparagraph (o) of the definition of financial service, and advisory and other auxiliary services, excluding intermediation, relating to banking and other financial services as referred to in subparagraph (p) of the definition of financial service.<sup>9</sup>
3. Honduras shall undertake the obligations of Article 12.5.1 with respect to the provision and transfer of financial information and financial data processing and related software as referred to in subparagraph (o) of the definition of financial service, and advisory and other auxiliary services, excluding intermediation, relating to banking and

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<sup>7</sup> It is understood that where the financial information or financial data referred to in subparagraphs (a) and (b) involve personal data, the treatment of such personal data shall be in accordance with Salvadorian law regulating the protection of such data.

<sup>8</sup> It is understood that advisory services includes portfolio management advice but not other services related to portfolio management, and that auxiliary services does not include those services referred to in subparagraphs (e) to (o) of the definition of financial service.

<sup>9</sup> It is understood that advisory services includes portfolio management advice but not other services related to portfolio management, and that auxiliary services does not include those services referred to in subparagraphs (e) to (o) of the definition of financial service.

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other financial services as referred to in subparagraph (p) of the definition of financial service.<sup>10</sup>

4. Nicaragua shall undertake the obligations of Article 12.5.1 with respect to:
- (a) provision and transfer of financial information as described in subparagraph (o) of Article 12.20 definition of banking and other financial services (excluding insurance); the treatment of such information shall be in accordance with Nicaraguan law regulating the its protection.
  - (b) financial data processing as described in subparagraph (o) of Article 12.20 definition of banking and other financial services (excluding insurance), subject to prior authorization from the relevant regulator, as required;<sup>11</sup>
  - (c) advisory and other auxiliary financial services, excluding intermediation and credit reference and analysis, relating to banking and other financial services as described in subparagraph (p) of Article 12.20.<sup>12</sup>

5. The United States shall undertake the obligations of Article 12.5.1 with respect to the provision and transfer of financial information and financial data processing and related software as referred to in subparagraph (o) of the definition of financial service, and advisory and other auxiliary services, excluding intermediation, relating to banking and other financial services as referred to in subparagraph (p) of the definition of financial service.<sup>13</sup>

6. Costa Rica shall undertake the obligations of Article 12.5.1 with respect to the provision and transfer of financial information and financial data processing and related software as referred to in subparagraph (o) of the definition of financial service, and advisory and other auxiliary services, excluding intermediation, relating to banking and other financial services as referred to in subparagraph (p) of the definition of financial service.<sup>14</sup>

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<sup>10</sup> It is understood that advisory services includes portfolio management advice but not other services related to portfolio management, and that auxiliary services does not include those services referred to in subparagraphs (e) to (o) of the definition of financial service.

<sup>11</sup> It is understood that where the financial information or financial data processing referred to in subparagraphs (a) and (b) involve information regulated under the concept of banking secrecy or personal data, the treatment of such personal data shall be in accordance with Nicaraguan law regulating the protection of such data.

<sup>12</sup> It is understood that advisory services includes portfolio management advice but not other services related to portfolio management, and that auxiliary services does not include those services referred to in subparagraphs (e) to (o) of the definition of financial service.

<sup>13</sup> It is understood that advisory services includes portfolio management advice but not other services related to portfolio management, and that auxiliary services does not include those services referred to in subparagraphs (e) to (o) of the definition of financial service.

<sup>14</sup> It is understood that advisory services includes portfolio management advice but not other services related to portfolio management, and that auxiliary services does not include those services referred to in subparagraphs (e) to (o) of the definition of financial service.

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**Annex 12.9.2: Specific Commitments**

*Portfolio Management*

*Costa Rica*

1. Costa Rica will allow a financial institution (other than a trust company) organized outside its territory, to provide investment advice and portfolio management services, excluding 1) custodial services 2) trustee services, and 3) execution services that are not related to managing a collective investment scheme, to a collective investment scheme located in the territory of Costa Rica. This commitment is subject to Article 12.1 and to the provisions of Article 12.5.3 regarding the right to require registration, without prejudice to other means of prudential regulation.
2. For purposes of this specific commitment, a “collective investment scheme” means an investment funds constituted according to the “*Ley Reguladora del Mercado de Valores, # 7732 del 17 de diciembre de 1997*”, pension funds and complementary pension funds constituted according to the “*Ley de Protección al Trabajador, # 7983 del 18 de febrero del 2000*”.
3. Notwithstanding paragraph 1, Costa Rica will require that the ultimate responsibility for the management of a collective investment scheme be borne by a “*sociedad administradora de fondos de inversión*” constituted according to the “*Ley Reguladora del Mercado de Valores, # 7732 del 17 de diciembre de 1997*” in the case of investment funds or a “*operadora de pensiones*” constituted according to the “*Ley de Protección al Trabajador, # 7983 del 18 de febrero del 2000*” in the case of pension funds and complementary pension funds.

*El Salvador*

1. El Salvador will allow a financial institution (other than a trust company), organized outside its territory, to provide investment advise and portfolio management services, excluding (1) custodial services, (2) trustee services, and (3) execution services that are not related to managing a collective investment scheme, to a collective investment scheme located in the territory of El Salvador. This commitment is subject to Article 12.1 and to the provisions of Article 12.5 regarding the right to require registration, without prejudice to other means of prudential regulation.
  2. For purposes of this specific commitment, a “collective investment scheme” means:
  3. The Parties recognize that El Salvador’s implementation of paragraph 1 will require adoption of a Special Law regulating collective investment schemes. El Salvador
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will adopt this Special Law no later than four years after the date of entry into force of this Agreement. At such time El Salvador will comply with the obligations in paragraph 1 of this provision and provide a definition of collective investment scheme as specify in paragraph 2.

*Guatemala*

1. Guatemala will allow a financial institution (other than a trust company), organized outside its territory, to provide investment advice and portfolio management services, excluding (a) custodial services, (b) trustee services, and (c) execution services not related to managing a collective investment scheme, to a collective investment scheme located in the territory of Guatemala. This commitment is subject to Article 12.1 and to the provisions of Article 12.5.3 regarding the right to require registration, without prejudice to other means of prudential regulation.
2. The Parties recognize that Guatemala does not currently have legislation establishing collective investment schemes. At such time as Guatemala adopts legislation, regulations or administrative guidance establishing collective investment schemes, Guatemala shall comply with the obligations in paragraph 1 of this provision and provide a definition of collective investment scheme.
3. The Parties recognize that Guatemala does not currently allow insurance companies to manage collective investment schemes. At such time as Guatemala allows insurance companies to manage collective investment schemes, Guatemala shall comply with the obligations in paragraph 1 of this provision.

*Honduras*

1. Honduras will allow a financial institution (other than a trust company), organized outside its territory, to provide investment advice and portfolio management services, excluding (1) custodial services, (2) trustee services, and (3) execution services that are not related to managing a collective investment scheme, to a collective investment scheme located in the territory of Honduras. This commitment is subject to Article 12.1 and to the provisions of Article 12.5 regarding the right to require registration, without prejudice to other means of prudential regulation.
2. For purposes of this specific commitment, a “collective investment scheme” means an [investment or mutual fund company] pursuant to Decreto No. 8-2001, Ley de Mercado de Valores, and any future laws, regulations or guidance further defining “collective investment scheme”.
3. Notwithstanding paragraph 1, Honduras may require the collective investment scheme located in its territory to retain ultimate responsibility for the management of the collective investment scheme or the funds that it manages.

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*Nicaragua*

1. Nicaragua will allow a financial institution (other than a trust company), organized outside its territory, to provide investment advice and portfolio management services, excluding (1) custodial services, (2) trustee services, and (3) execution services that are not related to managing a collective investment scheme or pension fund, to an managers of a collective investment or pension fund located in the territory of Nicaragua. This commitment is subject to Article 12.1 and to the provisions of Article 12.5 regarding the right to require registration, without prejudice to other means of prudential regulation.
2. For the purposes of this specific commitment a “Pension Fund” means as established on the Ley del Sistema de Ahorro para Pensiones, Ley No-340 (La Gaceta, Diario Oficial, No. 72 del 11 de abril del 2000) y sus reglamentos.
3. Notwithstanding paragraph 1, Nicaragua may require that the ultimate responsibility for the management of collective investment schemes and pension funds be borne, respectively, by the managers of such collective investment schemes and pension funds established in its territory.
4. The Parties recognize that Nicaragua does not currently have legislation establishing collective investment schemes and that its legislation relating to pension funds is not fully implemented. At such time as Nicaragua adopts legislation, regulations or administrative guidance establishing collective investment schemes, Nicaragua shall comply with the obligations in paragraph 1 of this provision with respect to collective investment schemes and provide a definition of collective investment scheme to be added to paragraph 2. At such time as Nicaragua undertakes further implementation relating to pension funds, Nicaragua shall comply with the obligations of paragraph 1 of this provision with respect to pension funds.
5. The Parties recognize that Nicaragua does not currently allow insurance companies to manage collective investment schemes. At such time as Nicaragua allows insurance companies to manage collective investment scheme, Nicaragua shall comply with the obligations in paragraph 1 of this provision.

*United States*

1. The United States will allow a financial institution (other than a trust company), organized outside its territory, to provide investment advice and portfolio management services, excluding (1) custodial services, (2) trustee services, and (3) execution services that are not related to managing a collective investment scheme, to a collective investment scheme located in the Party’s territory. This commitment is subject to Article 1 (scope and coverage) and to the provisions of Article 12.5.3 regarding the right to require registration, without prejudice to other means of prudential regulation).

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2. For purposes of this specific commitment, a “collective investment scheme” means an investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940

*Expedited Availability of Insurance*

*Costa Rica*

Costa Rica should endeavor to consider policies or procedures such as: not requiring product approval for insurance other than sold to individuals or compulsory insurance; allowing introduction of products unless those products are disapproved within a reasonable period of time; and not imposing limitations on the number or frequency of product introductions.

*El Salvador*

For El Salvador, it is understood that prior product approval is required before the introduction of a new insurance product. Once the company files information with the El Salvadorian supervisory authority, the regulator will grant according to its law approval or issue disapproval for the sale of the new product within 60 days. It is understood that El Salvador does not maintain any limitations on the number or frequency of new product introductions.

*Guatemala*

For Guatemala, it is understood that prior product approval is required before the introduction of a new insurance product. Once the company files the information with the Guatemalan supervisory authority, the regulator will grant according to its law approval or issue disapproval for the sale of the new product within 60 days. It is understood that Guatemala does not maintain any limitations on the number or frequency of product introductions.

*Honduras*

For Honduras, it is understood that prior product approval is required before the introduction of a new insurance product. Once the company files the information with the Honduran National Commission of Banks and Insurance, the regulator will grant according to its law approval or issue disapproval for the sale of the new product within 30 days. It is understood that Honduras does not maintain any limitations on the number or frequency of product introductions.

*Nicaragua*

**Nicaragua** should endeavor to maintain existing opportunities or may wish to consider policies or procedures such as: not requiring product approval for insurance other than sold to individuals or compulsory insurance; allowing introduction of products

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unless those products are disapproved within a reasonable period of time; and not imposing limitations on the number or frequency of product introductions.

*United States*

The United States should endeavor to maintain existing opportunities or may wish to consider policies or procedures such as: not requiring product approval for insurance other than sold to individuals or compulsory insurance; allowing introduction of products unless those products are disapproved within a reasonable period of time; and not imposing limitations on the number or frequency of product introductions.

*Foreign Banking*

El Salvador will allow Salvadorian banks to establish branches in the United States, subject to their compliance with relevant U.S. law. The Salvadorian regulatory agency will develop and issue prudential and other requirements that must be met by Salvadorian banks in order for them to receive authorization to apply for the establishment of branches in the United States.

*Branching*

*Nicaragua*

Notwithstanding the inclusion of the nonconforming measures of Nicaragua in Annex III, Section \_\_\_\_, referring to insurance market access, excluding any portion of those nonconforming measures referring to financial conglomerates and social services, no later than four years after the date of entry into force of this Agreement, Nicaragua shall allow U.S. insurance suppliers to establish in its territory through branches. Nicaragua may choose how to regulate branches, including their characteristics, structure, relationship to their parent company, capital requirements, technical reserves, and obligations regarding risk patrimony and their investments.

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*Specific Commitments Of Costa Rica On Insurance Services*

**I. Preamble**

The Government of the Republic of Costa Rica:

reaffirming its decision to ensure that the process of opening of the insurance services sector in the country must be based on the Constitution;

emphasizing that such process shall be to the benefit of the consumer and shall be accomplished gradually and based on prudential regulation;

recognizing its commitment to modernize the National Insurance Institute (INS) and the Costa Rican legal framework in the insurance sector;

undertakes through this Annex the following specific commitments on insurance services.

**II. Modernization of INS and the Costa Rican Legal Framework in the Insurance Sector**

By no later than January 1, 2007, Costa Rica shall establish an independent insurance regulatory authority which shall be separate from and not accountable to any supplier of insurance services. The decisions and the procedures used by the regulatory authority shall be impartial with respect to all market participants. The insurance regulatory authority shall have adequate powers, legal protection and financial resources to exercise its functions and powers,<sup>15</sup> and treat confidential information appropriately.

**III. Gradual Market Access Opening Commitments**

1. Cross-border commitments

Costa Rica shall allow insurance service providers of any Party, on a non-discriminatory basis, to effectively compete to supply directly to the consumer insurance services on a cross-border basis as provided below:

- A. By no later than the date of entry into force of the Agreement, Costa Rica shall permit the following:
  - (i) pursuant to Article 5.2, persons located in its territory, and its nationals wherever located, to purchase any and all lines of insurance (except compulsory automobile insurance<sup>16</sup> and

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<sup>15</sup> The regulatory authority shall act consistently with the core principles of the International Association of Insurance Supervisors.

<sup>16</sup> Refers to compulsory automobile insurance as defined in Article 48 of the Ley de Transito por Vias Publicas Terrestres Ley numero 7331 del April 13, 1993.

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occupational risk insurance<sup>17)</sup><sup>18</sup> from cross-border insurance service suppliers of another Party located in the territory of the other Party or of another Party. This obligation will not require Costa Rica to permit such suppliers to do business or solicit in its territory. Costa Rica may define “doing business” and “solicitation” for purposes of this obligation, as long as such definitions are not inconsistent with Article 12.5.1;

- (ii) pursuant to Article 12.5.1, the cross-border supply of or trade in financial services as defined in subparagraph (a) of the definition of cross-border supply of financial services in Article 12.20 with respect to:
  - (a) insurance risk relating to:
    - (i) space launching of freight (including satellite), maritime shipping and commercial aviation, 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; and
    - (ii) goods in international transit;
  - (b) retrocession and reinsurance
  - (c) services necessary to support global accounts;<sup>19</sup>
  - (d) services auxiliary to insurance as referred to in subparagraph (d) of the definition of financial service;<sup>20</sup>
  - (e) insurance intermediation, provided by brokers and agents outside Costa Rica, such as brokerage and agency as

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<sup>17</sup>As referred to in the last paragraph of article 73 of the Constitution of Costa Rica. Occupational risk insurance is a compulsory insurance that covers workers under a subordinate labor relationship for accidents or illnesses occurring as a consequence of their occupation, as well as the direct, immediate and evident effects of such accidents and illnesses.

<sup>18</sup> Costa Rica is not required to modify its regulation of compulsory automobile insurance and occupational risk insurance, provided that such regulation is consistent with the obligations undertaken in this Agreement, including this Annex.

<sup>19</sup> **Services necessary to support global accounts** means that the coverage of a master (global) insurance policy written in a territory other than Costa Rica for a multinational client by an insurer of a Party extends to the operations of the multinational client in Costa Rica. A multinational client is any foreign enterprise majority owned by a foreign manufacturer or service provider doing business in Costa Rica.

<sup>20</sup> Applies only to the lines of insurance set out in III.1.A.(ii)(a), (b), and (c).

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referred to in subparagraph (c) of the definition of financial services.<sup>21</sup>

- B. By July 1, 2007:
- (a) Costa Rica shall permit the establishment of representative offices; and
  - (b) Article 12.5.1 shall apply to the cross-border supply of or trade in financial services as defined in subparagraph (a) of the definition of cross-border supply of financial services in Article 12.20 with respect to:
    - (i) services auxiliary to insurance as referred to in subparagraph (d) of the definition of financial service;<sup>22</sup>
    - (ii) insurance intermediation such as brokerage and agency as referred to in subparagraph (c) of the definition of financial services;<sup>23</sup> and
    - (iii) surplus lines.<sup>24</sup>
- C. For Costa Rica, Article 12.5.1 applies to the cross-border supply of or trade in financial services as defined in subparagraph (c) of the definition of cross-border supply of financial services in Article 12.20 with respect to insurance services.

2. Right of establishment for insurance providers

Costa Rica shall allow insurance service providers of any Party on a non-discriminatory basis, to establish and effectively compete to supply directly to the consumer insurance services in its territory as provided below:

- (a) any and all lines of insurance<sup>25</sup> (except compulsory automobile and occupational risk insurance), no later than January 1, 2008.

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<sup>21</sup> Applies only to the lines of insurance set out in III.1.A.(ii)(a), (b), and (c).

<sup>22</sup> Applies to all lines of insurance.

<sup>23</sup> Applies to all lines of insurance.

<sup>24</sup> Surplus lines of insurance means lines of insurance (products covering specific sets of risks with specific characteristics, features and services) which meet the following criteria:

- 1) lines of insurance other than those that INS supplies as of the date of signature of this Agreement, or lines of insurance that are substantially the same as such lines; and
- 2) that are sold either (i) to customers with premiums in excess of \$10,000 USD per year or (ii) to enterprises or (iii) to customers with a particular net worth or revenues of a particular size or number of employees.

As of January 1, 2008, surplus lines are defined as insurance coverage not available from an admitted company in the regular market.

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- (b) Any and all lines of insurance, no later than January 1, 2011.

For purposes of this commitment Costa Rica shall allow insurance service providers to be established through any juridical form. It is understood that Costa Rica may establish prudential solvency and integrity requirements which shall be in line with comparable international regulatory practice.

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<sup>25</sup> For greater certainty, social security services referred to in the first, second and third paragraphs of article 73 of the Constitution and provided by the Caja Costarricense de Seguro Social as of the date of signature of this Agreement are not subject to any commitment included in this Annex.

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**Annex 12.9.3: Additional Information Regarding Financial Services Measures**

Each Party indicated has provided the following descriptive and explanatory information regarding certain aspects of its financial services measures solely for purposes of transparency.

*Costa Rica*

1. Securities:

Administrators of pension funds can invest up to 25 per cent of the equity of the fund in securities issued by foreign financial institutions. This limit can be increased up to 50 per cent, provided that real yields of investments of the complementary pension regime are equivalent or lower than international yields.

*El Salvador*

1. Banking:

- (a) Holding companies and other foreign financial institutions are subject to consolidated supervision in accordance with relevant international practice. The Supervisory Board, subject to the opinion of the Central Bank, shall issue instructions for determining eligible institutions.
- (b) Banks and other foreign financial institutions must satisfy requirements of prudential regulation and supervision in their countries of origin in accordance with relevant international practice.
- (c) In order for a foreign bank to be authorized to establish a branch in El Salvador, the following are required:
  - (i) *Requirements for Establishment:* To obtain the authorization referred to in the previous Article, a foreign bank must:
    - (A) Prove that its head office is legally established in accordance with the laws of the country where it is constituted, that the country of origin is subject to prudential regulation and surveillance in accordance with international usage on the issue, and that it is classified as a first-rate bank by an internationally recognized risk rating company;
    - (B) Prove that under the laws of the country of origin and its own regulations, it can approve the establishment of branches, agencies, and offices that satisfy the requirements established by this Law and that the provision to operate in El Salvador has been appropriately authorized, both by the

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head office and by the government authority in charge of oversight of this entity in its country of origin;

- (C) Agree to maintain permanently in the Republic at least one representative with full powers to perform all activities and contracts to be entered and executed in the national territory. The power must be granted clearly and precisely so as to bind the represented entity, so that it is wholly responsible in the country and internationally for all actions taken and contracts signed in the Republic and so that it satisfies all the requirements established under the laws of El Salvador and the laws of the country of origin of the foreign entity;
  - (D) Agree to locate and maintain in the country the amount of capital and capital reserves that this Law requires of El Salvador banks;
  - (E) Certify that it has at least five years of operation and that the results of its operations have been satisfactory, based on reports of the oversight entity in the country of origin and of internationally recognized risk rating companies; and
  - (F) Expressly submit to the laws, courts, and authorities of the Republic, with regard to the acts it performs and the contracts it signs, or those that have effect in the territory of El Salvador.
- (ii) In such cases, the Regulatory Agency shall sign cooperation memoranda with the regulatory agency of the country where the investing entity is established.
  - (iii) Foreign banks authorized to operate in the country shall be subject to inspection and oversight by the Regulatory Agency, shall enjoy the same rights and privileges, and will be subject to the same laws and will be ruled by the same standards that apply to banks from El Salvador.

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Annex 12.16.1: Financial Services Committee

*Authorities Responsible for Financial Services*

The authority of each Party responsible for financial services is:

- (a) for the United States, the Department of Treasury for banking and other financial services and [ ] for insurance,
- (b) for El Salvador, the Ministry of Economy, or its successor, in consultation with the corresponding competent authority (Superintendencia del Sistema Financiero, Superintendencia de Valores, Superintendencia de Pensiones y Banco Central de Reserva),
- (c) for Guatemala, the Superintendence of Banks for banking and other financial services and the Ministry of Economy for insurance and securities. Those are without prejudice to other institutions that maybe included to participate within the Financial Services Committee with previous approval of these authorities;
- (d) for Honduras, the Banco Central de Honduras, the Comisión Nacional de Bancos y Seguros, and the Secretaría de Industria y Comercio;
- (e) for Nicaragua, the Ministerio de Fomento, Industria y Comercio; the Superintendencia de Bancos y otras Instituciones Financieras; the Superintendencia de Pensiones; y the Ministerio de Hacienda y Crédito Público, for banking and other financial services and for insurance;
- (f) for Costa Rica, the Consejo Nacional de Supervisión Financiera (CONASIF) and the Ministerio de Comercio Exterior for banking and other financial services and for insurance.