

Annex III

SCHEDULE OF HONDURAS

EXPLANATORY NOTE

1. The Schedule of Honduras to Annex III sets out:
 - (a) headnotes that limit or clarify the commitments of Honduras with respect to the obligations described in clauses (i)-(v) of subparagraph (b), and in subparagraph (c);
 - (b) in Section A, pursuant to Article 11.9 (Non-Conforming Measures), the existing measures of Honduras that do not conform to some or all of the obligations imposed by:
 - (i) Article 11.2 (National Treatment);
 - (ii) Article 11.3 (Most-Favored-Nation Treatment);
 - (iii) Article 11.4 (Market Access for Financial Institutions);
 - (iv) Article 11.5 (Cross-Border Trade); or
 - (v) Article 11.8 (Senior Management and Boards of Directors); and
 - (c) in Section B, pursuant to Article 11.9 (Non-Conforming Measures), the specific sectors, subsectors, or activities for which Honduras may maintain existing, or adopt new or more restrictive, measures that do not conform with the obligations imposed by Article 11.2 (National Treatment), 11.3 (Most-Favored-Nation Treatment), 11.4 (Market Access for Financial Institutions), 11.5 (Cross-Border Trade), or 11.8 (Senior Management and Boards of Directors).
2. Each entry in Section A sets out the following elements:
 - (a) **Sector** refers to the general sector for which the entry is made;
 - (b) **Subsector** refers to the specific sector for which the entry is made;
 - (c) **Obligations Concerned** specifies the obligation(s) referred to in subparagraph 1(b) that, pursuant to Article 11.9 (Non-Conforming Measures), do not apply to the listed measure(s);

- (d) **Level of Government** indicates the level of government maintaining the listed measure(s);
 - (e) **Measures** identifies the laws, regulations or other measures for which the entry is made. A measure cited in the **Measures** element:
 - (i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement, and
 - (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure;
 - (f) **Description** provides a general, non-binding description of the Measures.
3. Each entry in Section B sets out the following elements:
- (a) **Sector** refers to the general sector for which the entry is made;
 - (b) **Subsector** refers to the specific sector for which the entry is made;
 - (c) **Obligations Concerned** specifies the obligation(s) referred to in subparagraph 1(c) that, pursuant to Article 11.9 (Non-Conforming Measures), do not apply to the sectors, subsectors, or activities listed in the entry;
 - (d) **Level of Government** indicates the level of government maintaining the listed measure(s); and
 - (e) **Description** sets out the scope of the sectors, subsectors, or activities covered by the entry.
4. In the interpretation of a non-conforming measure in Section A, all elements of the non-conforming measures listing shall be considered. A non-conforming measure shall be interpreted in the light of the relevant provisions of the Financial Services Chapter with respect to which the non-conforming measure is taken. To the extent that:
- (a) the Measures element is qualified by a liberalization commitment from the Description element, if any, or a Specific Commitment from an Annex to the Financial Services Chapter, the Measures element as so qualified shall prevail over all other elements; and
 - (b) the Measures element is not so qualified, the Measures element shall prevail over all other elements, unless any discrepancy between the Measures element and the other elements considered in their totality is so substantial and material that it

would be unreasonable to conclude that the Measures element should prevail, in which case the other elements shall prevail to the extent of the discrepancy.

5. For entries in Section B, in accordance with Article 11.9 (Non-Conforming Measures) the articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the sectors, subsectors, and activities identified in the Description element of that entry.

6. Where Honduras maintains a measure that requires that a service supplier be a citizen, permanent resident or resident of its territory as a condition to the provision of a service in its territory, a listing for that measure taken in Annex III with respect to Article 11.2 (National Treatment), 11.3 (Most-Favored-Nation Treatment), 11.4 (Market Access for Financial Institutions), or 11.5 (Cross-Border Trade) shall operate as a non-conforming measure with respect to Articles 9.3 (National Treatment), 9.4 (Most-Favored-Nation Treatment) and 9.9 (Performance Requirements), to the extent of that measure.

7. Appendix III-A refers to certain measures that the Parties consider to be not inconsistent with Articles 11.2 (National Treatment) or 11.4 (Market Access for Financial Institutions) or that are subject to Article 11.10 (Exceptions).

HEADNOTES

1. Commitments in these subsectors under the Agreement are undertaken subject to the limitations and conditions set forth in these headnotes and in Sections A and B below.
2. To clarify Honduras's commitment with respect to Article 11.4 (Market Access for Financial Institutions), juridical persons supplying financial services and constituted under the laws of Honduras are subject to non-discriminatory limitations on juridical form.¹
3. The commitments of Honduras under Articles 11.2 (National Treatment) and 11.4 (Market Access for Financial Institutions) are subject to the limitation that in order to establish or acquire a controlling interest in a financial institution in Honduras, a foreign investor must own or control a financial institution that engages in supplying financial services within the same financial services subsector in its home country.
4. Honduras limits its commitments under Article 11.9.1(c) (Non-Conforming Measures) with respect to Article 11.4 (Market Access for Financial Institutions) in the following manner: Article 11.9.1(c) shall apply only to non-conforming measures relating to 11.4.1(a) and not to those non-conforming measures relating to Article 11.4.1(b).²

¹ In compliance with Article 90 of the Honduran Commerce Code, "Sociedad Anónima" is the entity that exists under a denomination, and it has a founding capital divided into shares, whose partners limit their liability to those shares that they have undersigned". The requirements to constitute a "Sociedad Anónima" are provided for by Article 92 of Honduran Commerce Code.

² Article 11.3 (Most-Favoured-Nation Treatment) shall not apply with regard to the limitation in the application of Article 11.9.1(c) described above in paragraph 4.

Section A

1. Sector:	Financial Services
Subsector:	Banking and Other Financial Services, Banks, and Loan Associations, Financial Companies
Obligations Concerned:	National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3) Market Access for Financial Institutions (Article 11.4)
Level of Government:	Central
Measures:	Ley de Instituciones del Sistema Financiero, Decreto No. 129-2004 del 24 de septiembre de 2014, Artículos 5, 6, 18, y 32. (Financial System Law, Decree No. 129-2004, Arts. 5, 6, 18, and 32) Decreto No. 60-99 de fecha de 3 de Junio de 1999. (Decree No. 60-99 of 3 June 1999).
Description:	<p>Foreign financial institutions must be established as an anonymous society (<i>Sociedades Anónimas</i>), as a branch, or as a representative office in conformity with the above-cited measures.</p> <p>The operations of a branch or agency of a foreign bank are limited to the amount of capital assigned to the offices operating in Honduras.</p> <p>A branch or agency of a foreign bank may only publish the amount of capital effectively assigned to the offices operating in the country and their respective capital reserves.</p> <p>The Comisión Nacional de Bancos y Seguros (National Commission of Banks and Insurance), shall not permit the opening of a branch or agency of a foreign bank if there is no reciprocity in their country of origin.</p> <p>In this context, a lack of reciprocity means that the law of another country completely excludes the possibility of establishing as a foreign branch.</p> <p>A branch of a foreign bank is not required to have its own Board of Directors or Administrative Council, but must have at least two representatives domiciled in Honduras. Those representatives are responsible for the general direction and administration of the business and have the legal authority to act in Honduras and to execute and to be responsible for the branch's own operations.</p>

2. Sector:	Financial Services
Subsector:	Bureaus of Exchange
Obligations Concerned:	National Treatment (Article 11.2) Market Access for Financial Institutions (Article 11.4)
Level of Government:	Central
Measures:	<i>Ley de Casas de Cambio</i> , Decreto No. 16-92 del 3 de marzo de 1992, Artículo 4. (Law of Exchange Offices, Decree No. 16-92 of March 3, 1992, Article 4).
Description:	Currency exchange bureaus in Honduras must be constituted as an anonymous society (<i>Sociedad Anónima</i>) ³ . The shareholders of currency exchange bureaus must be natural persons with Honduran nationality.

³ In compliance with Article 90 of the Honduran Commerce Code, “Sociedad Anónima” is the entity that exists under a denomination, and it has a founding capital divided into shares, whose partners limit their liability to those shares that they have undersigned”. The requirements to constitute a “Sociedad Anónima” are provided for by Article 92 of Honduran Commerce Code.

3. Sector:	Financial Services
Subsector:	Securities Exchanges
Obligations Concerned:	Market Access for Financial Institutions (Article 11.4)
Level of Government:	Central
Measures:	<i>Ley de Mercado de Valores</i> , Decreto No. 8- 2001 del 9 de junio de 2001, Artículo 21. (Securities Market Law, Decree No. 8- 2001 of June 9, 2001, Article 21).
Description:	A securities exchange operating in Honduras must be constituted as an anonymous society (<i>Sociedad Anónima</i>).

4. Sector:	Financial Services
Subsector:	Securities Firms
Obligations Concerned:	Market Access for Financial Institutions (Article 11.4)
Level of Government:	Central
Measures:	<i>Ley de Mercado de Valores</i> , Decreto No. 8-2001 del 9 de junio de 2001, Artículo 49. (Securities Market Law, Decree No. 8-2001 of June 9, 2001, Article 49).
Description:	Securities firms in Honduras must be constituted as an anonymous society (<i>Sociedad Anónima</i>).

5. Sector:	Financial Services
Subsector:	Fund Administration Companies
Obligations Concerned:	Market Access for Financial Institutions (Article 11.4)
Level of Government:	Central
Measures:	<p><i>Ley de Mercado de Valores</i>, Decreto No. 8-2001 del 9 de junio de 2001, Artículo 82. (Securities Market Law, Decree No. 8-2001 of June 9, 2001, Article 82)</p> <p>Artículo 3 del <i>Reglamento de las Sociedades Administradoras de Fondos</i>, aprobado mediante la Resolución No. 171/11-02-2003. (Article 3 of the Fund Administration Companies Regulations approved under Resolution No. 171/11-02-2003)</p>
Description:	Fund Administration Companies in Honduras must be constituted as an anonymous society (<i>Sociedad Anónima</i>) with the exclusive social purpose of administering one or more mutual funds and/or investment funds in accordance with the laws on that matter.

6. Sector:	Financial Services
Subsector:	Centralized Depositories for the Custody, Compensation and Liquidation of Shares
Obligations Concerned:	Market Access for Financial Institutions (Article 11.4)
Level of Government:	Central
Measures:	<i>Ley de Mercado de Valores</i> , Decreto No. 8-2001 del 9 de junio de 2001, Artículo 139. (Securities Market Law, Decree No. 8-2001 of June 9, 2001, Article 139)
Description:	Depositories for the custody, compensation and liquidation of shares in Honduras must be constituted as an anonymous society (<i>Sociedad Anónima</i>).

7. Sector:	Financial Services
Subsector:	Insurance and Reinsurance
Obligations Concerned:	National Treatment (Article 11.2)
Level of Government:	Central
Measures:	<p><i>Ley de Instituciones de Seguros y Reaseguros</i>, Decreto No. 22-2001 del 11 de agosto de 2011, Artículos 9, 21, 47, 58, 96, 97. (Law on Insurance and Reinsurance Institutions, Decree No. 22-2001, Articles 9, 21, 47, 58, 96, 97).</p> <p><i>Reglamento de Establecimientos de Sucursales de Instituciones de Seguros Extranjeras, de la Comisión Nacional de Bancos y Seguros</i>, aprobado mediante la Resolución No. 948/05-08-2003, Arts. 4 y 7, publicado en el <i>Diario Oficial "La Gaceta,"</i> con fecha 15 de Agosto de 2003. (Regulation of Branches and Establishment of Foreign Insurance Institutions, National Commission of Banks and Insurance approved under Resolution No. 948/05-08-2003, Articles 4 and 7, published in the <i>Diario Oficial "La Gaceta"</i> 15 August 2003.</p> <p><i>Reglamento de Ajustadores de Pérdidas y Auxiliadores de Seguros</i>, aprobado mediante la Resolución No. 947/05-08-2003 de la Comisión Nacional de Bancos y Seguros el 8 de Agosto de 2003, Art. 3, publicado en el <i>Diario Oficial "La Gaceta,"</i> con fecha 15 de Agosto de 2003. (Regulations of Loss Adjusters and Insurance Intermediaries, approved under Resolution No. 947/05-08-2003 of the National Commission of Banks and Insurance on 8 August 2003, Article 3, published in the <i>Diario Oficial "La Gaceta"</i> 15 August 2003).</p> <p><i>Resolución No. 443 del 11 de Diciembre de 2003, Art. 7, subpárrafo (k).</i> (Resolution No. 443 of 11 December 2003, Article 7, subparagraph (k)).</p>
Description:	<p>Insurance institution is organized in the country; it must be constituted as an anonymous society (<i>Sociedad Anónima</i>) of capital divided into registered shares. The founders may be natural or legal persons.</p> <p>The Foreign insurance institution seeking to establish in Honduras must deposit at least 10% of the minimum capital of the proposed company in either the Central Bank of Honduras (<i>Banco Central de Honduras</i>) or invest the above amount in State securities. This deposit will be refunded once the</p>

	<p>application is approved or resolved.</p> <p>To act as an insurance agent or broker, a natural person must be a Honduran national or a resident of Honduras for at least three consecutive years.</p> <p>To serve as an adjustor or claim liquidator, accident investigator, or damage inspector, a natural person must be a Honduran national or legal resident in Honduras.</p> <p>A branch of a foreign insurance institution is not required to have its own Board of Directors or Administrative Council, but must have 1 representative domiciled in Honduras. That representative is responsible for the general direction and administration of the business and has the legal authority to act in Honduras and to execute and to be responsible for the branch's own operations.</p>
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Section B

8. Sector:	Financial Services
Subsector:	Savings and Loan Cooperatives
Obligations Concerned:	National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3) Market Access for Financial Institutions (Article 11.4) Senior Management and Boards of Directors (Article 11.8)
Level of Government:	Central
Measures:	
Description:	Honduras reserves the right to adopt or maintain a non-conforming measure with respect to the provision of services by Savings and Loan Cooperatives.

9. Sector:	Financial Services
Subsector:	All sub-sectors other than Banks and Insurance
Obligations Concerned:	Market Access for Financial Institutions (Article 11.4)
Level of Government:	Central
Measures:	
Description:	Honduras reserves the right to adopt or maintain any measure requiring the incorporation in Honduras of foreign financial institutions, other than those seeking to operate as banks or insurance companies within Honduras.

Appendix III-A
Honduras

CERTAIN MEASURES NOT INCONSISTENT WITH ARTICLES 11.2 OR 11.4, OR SUBJECT TO ARTICLE 11.10.

In accordance with Article 11.10 (Exceptions), Honduras reaffirms that nothing in this Agreement prevents it from adopting or maintaining measures for prudential reasons.

Without prejudice to Article 11.10 (Exceptions), any measure that Honduras adopts or maintains in its legislation that is equivalent or has an effect equivalent to the measures set forth in Appendix III-1 of Korea, shall not be construed to be inconsistent with Articles 11.2 or 11.4. Any revision, amendment or modification to such measures or related legislation shall not be construed to be inconsistent with Articles 11.2 or 11.4, to the extent that it does not conflict with the spirit of the original measure.