

**ANNEX III
NEW ZEALAND'S RESERVATIONS TO CHAPTER 11 (FINANCIAL
SERVICES)**

HEADNOTES

1. Commitments under Chapter 11 (Financial Services) are undertaken subject to the limitations and conditions set forth in the consolidated headnote, these headnotes and the Schedule below.
2. For entries in Section A, **Description** sets out the non-conforming measure for which the entry is made.
3. For entries in Section A, all elements of the entry shall be considered in their totality for the purposes of its interpretation.
4. For entries in Section B, where an inconsistency arises in relation to the interpretation of an entry, the **Description** element of the entry shall prevail to the extent of the inconsistency.
5. In accordance with Article 11.10 (Non-Conforming Measures), the articles of this Agreement specified in the **Obligations concerned** element of an entry do not apply to measures identified in the **Description** element of that entry.
6. To clarify New Zealand's commitment with respect to Article 11.5 (Market Access for Financial Institutions) of the Agreement, juridical persons supplying financial services and constituted under the laws of New Zealand are subject to non-discriminatory limitations on juridical form.¹
7. Article 11.10(1)(c) (Non-Conforming Measures) shall not apply to non-conforming measures relating to paragraph (b) of Article 11.5 (Market Access for Financial Institutions).
8. For transparency purposes and in accordance with Article 11.10.3 (Non-Conforming Measures), non-conforming measures set out in Annex I or II of New Zealand's Schedule of Cross Border Trade in Services and Investment Non-Conforming Measures as not subject to Articles 9.4 or 10.3 (National Treatment), Articles 9.5 or 10.4 (Most Favoured-Nation Treatment), or Article 9.10 (Senior Management and Boards of Directors), including those entries that apply to all sectors or financial services, shall be treated as non-conforming measures not subject to Articles 11.3 (National Treatment), 11.4 (Most-Favoured-Nation Treatment), or 11.9

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

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(Senior Management and Boards of Directors), to the extent that the measure, sector, subsector, or activity set out in the entry is covered by Chapter 11 (Financial Services).

9. For greater certainty, the measures which New Zealand may take in accordance with Article 11.11(1) (Exceptions), provided they meet the requirements of that Article, include those governing:

- (a) licensing, registration or authorisation as a financial institution or cross-border financial service supplier, and corresponding requirements;
- (b) juridical form, including legal incorporation requirements for systemically important financial institutions and limitations on deposit-taking activities of branches of overseas banks, and corresponding requirements;
- (c) requirements pertaining to directors and senior management of a financial institution or cross-border financial service supplier;
- (d) capital, related party exposures, liquidity, disclosure, and other risk management requirements;
- (e) payment, clearance and settlement systems (including securities systems);
- (f) anti-money laundering and countering financing of terrorism; and
- (g) distress or failure of a financial institution or cross-border financial service supplier.

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SECTION A

Sector	Financial Services
Sub-Sector	Insurance and insurance-related services
Obligations concerned	National Treatment (Article 11.3) Market Access for Financial Institutions (Article 11.5) Cross-Border Trade (Article 11.6)
Level of Government	Central
Measure	Commodity Levies Act 1990 Commodity Levies Amendment Act 1995 Kiwifruit Industry Restructuring Act 1999 and regulations
Description	<p>The provision of crop insurance for wheat can be restricted in accordance with the Commodity Levies Amendment Act 1995. Section 4 of this Act provides for the use of funds derived under a mandatory commodity levy on wheat growers to be used for the purpose of funding a scheme insuring wheat crops against damage or loss.</p> <p>The provision of insurance intermediation services related to the export of kiwifruit can be restricted in accordance with the Kiwifruit Industry Restructuring Act 1999 and regulations relating to the export marketing of kiwifruit.</p>

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Sector	Financial Services
Sub-Sector	Banking and other financial services (excluding insurance)
Obligations concerned	Senior Management and Boards of Directors (Article 11.9)
Level of Government	Central
Measure	Kiwisaver Act 2006
Description	At least one director of a corporate trustee and one director of a fund manager of a registered Kiwisaver scheme must be a New Zealand resident.

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SECTION B

Sector	Financial Services
Sub-Sector	Insurance and insurance-related services
Obligations concerned	Market Access for Financial Institutions (Article 11.5) Cross-Border Trade (Article 11.6) Senior Management and Boards of Directors (Article 11.9)
Description	New Zealand reserves the right to adopt or maintain any measure with respect to the supply of: <ul style="list-style-type: none">· compulsory social insurance for personal injury caused by accident, work related gradual process disease and infection, and treatment injury; and· disaster insurance for residential property for replacement cover up to a defined statutory maximum.
Existing Measures	Accident Compensation Act 2001 Earthquake Commission Act 1993

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Sector	Financial Services
Sub-Sector	Banking and other financial services (excluding insurance)
Obligations concerned	National Treatment (Article 11.3) Market Access for Financial Institutions (Article 11.5)
Description	<p>New Zealand reserves the right to adopt or maintain any measure with respect to the establishment or operation of exchanges, securities markets or futures markets.</p> <p>For greater certainty, this reservation does not apply to financial institutions participating in, or seeking to participate in, any such exchange, securities market, or futures market.</p>

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Sector	Financial Services
Sub-Sector	Banking and other financial services (excluding insurance)
Obligations concerned	National Treatment (Article 11.3) Market Access for Financial Institutions (Article 11.5) Senior Management and Boards of Directors (Article 11.9)
Description	New Zealand reserves the right to adopt or maintain any measure with respect to the establishment or operation of any unit trust, market or other facility established for the trade in, or allotment or management of, securities in the co-operative dairy company arising from the amalgamation authorised under the Dairy Industry Restructuring Act 2001 (DIRA) (or any successor body).

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Sector	Financial Services
Sub-Sector	Insurance and insurance-related services
Obligations concerned	National Treatment (Article 11.3) Market Access for Financial Institutions (Article 11.5) Cross-Border Trade (Article 11.6)
Description	<p>New Zealand reserves the right to adopt or maintain any measure with respect to insurance and insurance-related services for industry marketing boards established for products under the following CPC codes:</p> <ul style="list-style-type: none">- 01, except 01110 and 01340 (products of agriculture, horticulture and market gardening, except wheat and kiwifruit);- 02 (live animals and animal products);- 211, except 21111, 21112, 21115, 21116 and 21119 (meat and meat products, except beef, sheep meat, poultry and offal);- 213-216 (prepared and preserved vegetables, fruit juices and vegetable juices, prepared and preserved fruit and nuts, animal and vegetable oils and fats);- 22 (dairy);- 2399 (“other food products”); and- 261, except for 2613, 2614, 2615, 02961, 02962 and 02963 (natural textile fibres prepared for spinning, excluding wool).
Existing Measures	Commodity Levies Act 1990

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Sector	Financial Services
Sub-Sector	All
Obligations concerned	Senior Management and Boards of Directors (Article 11.9)
Description	<p>New Zealand reserves the right to adopt or maintain measures which require all companies to have one or more directors, of whom at least one must:</p> <ul style="list-style-type: none">i) live in New Zealand; orii) live in an “enforcement country”¹ and be a director of a company that is registered (except as the equivalent of an overseas company) in that enforcement country.*

¹ A country that has an agreement with New Zealand that allows for the recognition and enforcement there of New Zealand judgments imposing regulatory regime criminal fines.

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Sector	Financial Services
Sub-Sector	All
Obligations concerned	Market Access for Financial Institutions (Article 11.5) Cross-Border Trade (Article 11.6)
Description	<p>New Zealand reserves the right to adopt or maintain any measure with respect to:</p> <ul style="list-style-type: none">· the provision of public law enforcement and correctional services; and· the following, to the extent that they are social services established for a public purpose:<ul style="list-style-type: none">○ child care○ health○ income security and insurance○ public education○ public housing○ public training○ public transport○ public utilities○ social security and insurance○ social welfare

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Sector	Financial Services
Sub-Sector	All
Obligations concerned	National Treatment (Article 11.3)
Description	New Zealand reserves the right to adopt or maintain any measure which provides a subsidy or grant to any entities that are controlled, or wholly or partially owned, by the government and which may conduct financial operations, including measures taken in relation to the privatisation of such entities.

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Sector	Financial Services
Sub-Sector	All
Obligations concerned	National Treatment (Article 11.3) Most-Favoured-Nation Treatment (Article 11.4)
Description	<p>New Zealand reserves the right to adopt or maintain any measure which provides a subsidy or grant to any entity that is systemically important to the infrastructure of the financial market, including:</p> <ul style="list-style-type: none">· exchanges;· clearing and settlement facilities; and· market operators.