

ANNEX III

Financial Services

Schedule of Canada – Explanatory Notes

1. Canada's Schedule to this Annex sets out:
 - (a) headnotes that limit or clarify commitments of Canada with respect to the obligations described in subparagraphs (b) and (c);
 - (b) in Section A, the reservations taken by Canada, pursuant to Article 10.9.1, with respect to existing measures that do not conform with obligations imposed by Articles relating to:
 - (i) Article 10.2 (National Treatment);
 - (ii) Article 10.3 (Most-Favoured-Nation Treatment);
 - (iii) Article 10.4 (Market Access for Financial Institutions);
 - (iv) Article 10.5 (Cross-Border Trade); or
 - (v) Article 10.8 (Senior Management and Boards of Directors); and
 - (c) in Section B, the reservations taken by Canada, pursuant to Article 10.9.2, for measures that Canada may adopt or maintain that do not conform with obligations imposed by Article 10.2 (National Treatment), 10.3 (Most-Favoured-Nation Treatment), 10.4 (Market Access for Financial Institutions), 10.5 (Cross-Border Trade), or 10.8 (Senior Management and Boards of Directors).
2. Each reservation in Section A sets out the following elements:
 - (a) **Sector** refers to the general sector in which the reservation is taken;
 - (b) **Sub-sector** refers to the specific sector in which the reservation is taken;
 - (c) **Type of Reservation** specifies the obligation referred to in paragraph 1(b) for which the reservation is taken;

- (d) **Level of Government** indicates the level of government maintaining the measure for which the reservation is taken;
 - (e) **Measures** identifies the laws, regulations or other measures, as qualified by the **Description** element, for which the reservation is taken. 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 a subordinate measure adopted or maintained under the authority of and consistent with the measure; and
 - (f) **Description** sets out references, if any, for liberalisation on the date of entry into force of this Agreement pursuant to other sections of Canada's Schedule to this Annex, and the remaining non-conforming aspects of the existing measures for which the reservation is taken.
3. Each reservation in Section B sets out the following elements:
- (a) **Sector** refers to the general sector in which the reservation is taken;
 - (b) **Sub-sector** refers to the specific sector in which the reservation is taken;
 - (c) **Type of Reservation** specifies the obligation referred to in paragraph 1(c) for which the reservation is taken;
 - (d) **Level of Government** indicates the level of government maintaining the measure for which the reservation is taken; and
 - (e) **Description** sets out the scope of the sectors, sub-sectors or activities covered by the reservation.
4. In the interpretation of a reservation in Section A, all elements of the reservation shall be considered. A reservation shall be interpreted in the light of the relevant provisions of the Chapter against which the reservation is taken. To the extent that:
- (a) the **Measures** element is qualified by a specific reference in the **Description** element, 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 a 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 that discrepancy.

5. In the interpretation of a reservation in Section B, all elements of the reservation shall be considered. The **Description** element shall prevail over all other elements.

6. Where Canada maintains a measure that requires that a service supplier be a citizen, permanent resident, or resident of its territory as a condition to the supply of a service in its territory, a reservation for that measure taken with respect to Article 10.2 (National Treatment), 10.3 (Most-Favoured-Nation Treatment), 10.4 (Market Access for Financial Institutions) or 10.5 (Cross-Border Trade) shall operate as a reservation with respect to Article 8.3 (National Treatment), 8.4 (Most-Favoured-Nation Treatment), or 8.8 (Performance Requirements) to the extent of that measure.

Headnotes

1. Commitments under this Agreement, in the sub-sectors listed in this Schedule, are undertaken subject to the limitations and conditions set forth in these headnotes and in the Schedule below.
2. To clarify the commitment of Canada with respect to Article 10.4 (Market Access for Financial Institutions), juridical persons supplying financial services and constituted under the laws of Canada are subject to non-discriminatory limitations on juridical form. For example, partnerships and sole proprietorships with limited or unlimited liability are generally not acceptable juridical forms for financial institutions in Canada. This headnote does not affect or otherwise limit a choice by an investor of the other Party between a branch or subsidiary.
3. The listing of a measure as a reservation in Section A or B does not mean that it cannot otherwise be justified as a measure adopted or maintained for prudential reasons pursuant to Article 10.10 (Exceptions).
4. Canada limits its commitments pursuant to Article 10.9.1(c) with respect to Article 10.4 (Market Access for Financial Institutions) in the following manner: Article 10.9.1(c) shall apply only to non-conforming measures relating to Article 10.4(a) and not to those non-conforming measures relating to Article 10.4(b).

ANNEX III

Schedule of Canada

Section A

Sector:	Financial Services
Sub-sector:	All
Type of Reservation:	National Treatment (Article 10.2)
Level of Government:	Federal
Measures:	<i>Bank Act – s.s. 159(2)</i> <i>Insurance Companies Act – s.s. 167(2)</i> <i>Trust and Loans Companies Act – s.s. 163(2)</i> <i>Cooperative Credit Associations Act – s.s. 169(2)</i>
Description:	A simple majority of the directors at a financial institution are required to be resident Canadians.

Sector:	Financial Services
Sub-sector:	All
Type of Reservation:	National Treatment (Article 10.2) Most-Favoured-Nation (Article 10.3) Cross-Border Trade (Article 10.5) Senior Management and Boards of Directors (Article 10.8)
Level of Government:	Sub-national
Measures:	
Description:	All existing non-conforming measures of all provinces and territories.

Section B

Sector:	Financial Services
Sub-sector:	All
Type of Reservation:	Market Access for Financial Institutions (Article 10.4)
Description:	<p>Canada reserves the right to adopt or maintain a measure that is not inconsistent with Canada's obligations under Article XVI of the <i>General Agreement on Trade in Services</i> as set out in Canada's Schedule of Specific Commitments under the GATS (GATS/SC/16/Suppl.4/Rev.1).</p> <p>For purposes of this entry only, Canada's Schedule of Specific Commitments is modified as follows:</p>
Sector/Sub-sector:	Market Access Improvements
All	<p>Under Mode 3 (All sectors) remove:</p> <p>Federally-regulated financial institutions having capital in excess of Can\$750 million are required, within five years of having reached the threshold, to have 35 percent of their voting shares widely-held and listed and posted for trading on a Canadian Stock Exchange.</p> <p>Under Mode 3 (All sectors) add:</p> <p>Federally-regulated financial institutions having equity in excess of Can\$1 billion are required within three years of having reached the threshold, to have 35 percent of their voting shares widely-held and listed and posted for trading on a stock exchange in Canada.</p>

Under Mode 3 (Banking and other financial services)

delete:

No one person (Canadian or foreign) may own more than 10 percent of any class of shares of a Schedule I bank.

Under Mode 3 (All sectors) add:

No person (Canadian or foreign) may own more than 10 percent of any class of shares of a federally-regulated financial institution without Ministerial approval.

No person (Canadian or foreign) may own more than 20 percent of any class of voting shares, or 30 percent of any class of non-voting shares, of federally-regulated financial institution with more than Can\$5 billion in equity.

Sector:	Financial Services
Sub-sector:	Banking and Other Financial Services (Excluding Insurance)
Type of Reservation:	National Treatment (Article 10.2)
Level of Government:	Federal
Description:	<p>Canada reserves the right to adopt or maintain a measure requiring that a foreign bank establish a subsidiary in order to accept or maintain retail deposits of less than Can\$150,000.</p> <p>Canada reserves the right to adopt or maintain a measure prohibiting full service bank branches and lending bank branches from becoming member institutions of the Canadian Deposit Insurance Corporation.</p>

Sector:	Financial Services
Sub-sector:	Banking and Other Financial Services (Excluding Insurance)
Type of Reservation:	National Treatment (Article 10.2)
Level of Government:	Federal
Description:	Canada reserves the right to adopt or maintain a measure requiring that foreign banks that have been authorised to establish a branch in Canada be members of the Canadian Payments Association. Canada also reserves the right to adopt or maintain a measure prohibiting foreign lending branches from being members of the Canadian Payments Association.

Sector:	Financial Services
Sub-sector:	Banking and Other Financial Services (Excluding Insurance)
Type of Reservation:	Most-Favoured-Nation Treatment (Article 10.3)
Level of Government:	Federal and sub-national
Description:	Canada reserves the right to adopt or maintain a measure relating to cross-border trade in securities services.

ANNEX III

Financial Services

Schedule of Korea – Explanatory Notes

1. Korea's Schedule to this Annex sets out:
 - (a) headnotes that limit or clarify the commitments of Korea with respect to the obligations described in subparagraphs (b) and (c);
 - (b) in Section A, pursuant to Article 10.9.1, the existing measures of Korea that do not conform with some or all of the obligations imposed by:
 - (i) Article 10.2 (National Treatment);
 - (ii) Article 10.3 (Most-Favoured-Nation Treatment);
 - (iii) Article 10.4 (Market Access for Financial Institutions);
 - (iv) Article 10.5 (Cross-Border Trade); or
 - (v) Article 10.8 (Senior Management and Boards of Directors); and
 - (c) in Section B, pursuant to Article 10.9.2, the specific sectors, subsectors, or activities for which Korea may maintain existing, or adopt new or more restrictive, measures that do not conform with the obligations imposed by Article 10.2 (National Treatment), 10.3 (Most-Favoured-Nation Treatment), 10.4 (Market Access for Financial Institutions), 10.5 (Cross-Border Trade), or 10.8 (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) **Sub-sector** refers to the specific sector for which the entry is made;

- (c) **Obligations Concerned** specifies the Articles referred to in paragraph 1(b) that, pursuant to Article 10.9.1(a), do not apply to the non-conforming aspects of the law, regulation, or other measure, as set out in paragraph 4;
 - (d) **Level of Government** indicates the level of government maintaining the scheduled measure(s);
 - (e) **Measures** identify 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; and
 - (f) **Description** provides a general, non-binding description of the measure for which the entry is made.
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) **Sub-sector** refers to the specific sector for which the entry is made;
 - (c) **Obligations Concerned** specifies the Articles referred to in paragraph 1(c) that, pursuant to Article 10.9.2, do not apply to the sectors, sub-sectors, or activities scheduled 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. For entries in Section A, pursuant to Article 10.9.1(a), and subject to Article 10.9.1(c), the Articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the non-conforming aspects of the law, regulation, or other measure identified in the Measures element of that entry, except to the extent that such non-conforming aspects are inconsistent with Annex 10-B (Specific Commitments).

5. For entries in Section B, pursuant to Article 10.9.2, 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 Korea adopts or maintains a measure that requires that a service supplier be a citizen, permanent resident, or resident of its territory as a condition to the supply of a service in its territory, a Schedule entry for that measure taken with respect to Article 10.2 (National Treatment), 10.3 (Most-Favoured-Nation Treatment), 10.4 (Market Access for Financial Institutions), or 10.5 (Cross-Border Trade) operates as a Schedule entry with respect to Article 8.3 (National Treatment), 8.4 (Most-Favoured-Nation Treatment), or 8.8 (Performance Requirements) to the extent of that measure.
7. Appendix III-A lists certain measures that the Parties consider to be not inconsistent with Article 10.2 (National Treatment) or 10.4 (Market Access for Financial Institutions) or subject to Article 10.10.1.
8. An entry in Annex I or Annex II specifying that Article 9.2 (National Treatment) does not apply to the non-conforming aspects of a law, regulation, or other measure, is not construed as limiting a Party's obligation under Article 10.5.1 to accord national treatment with respect to the supply of services specified in Annex 10-A (Cross-Border Trade) to cross-border financial service suppliers of the other Party.

Headnotes

1. Commitments in these sub-sectors under the Agreement are undertaken subject to the limitations and conditions set forth in these headnotes and in the Schedules below.
2. To clarify the commitment of Korea with respect to Article 10.4 (Market Access for Financial Institutions), juridical persons supplying financial services and constituted under the laws of Korea are subject to non-discriminatory limitations on juridical form¹.
3. The commitments of Korea pursuant to Articles 10.2 (National Treatment) and 10.4 (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 Korea, 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. Korea limits its commitments pursuant to Article 10.9.1(c) with respect to Article 10.4 (Market Access for Financial Institutions) in the following manner: Article 10.9.1(c) shall apply only to non-conforming measures relating to 10.4 (a) and not to those non-conforming measures relating to Article 10.4 (b).

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

ANNEX III

Schedule of Korea

Section A

1. Sector:	Financial Services
Sub-Sector:	Insurance
Obligations Concerned:	Market Access for Financial Institutions (Article 10.4)
Level of Government:	National
Measures:	<i>Insurance Business Act</i> (Law No. 10866, 21 July 2011), Articles 91 and 100 <i>Enforcement Decree of the Insurance Business Act</i> (Presidential Decree No. 24097, 7 September 2012), Article 40
Description:	<p>Only two employees of a commercial bank, mutual saving bank, or an investment trader or investment broker may sell insurance products at any one time at a single location.</p> <p>For transparency purposes, Korea restricts the manner of sales of insurance products including by limiting the number of windows in a single bank location devoted to the sale of insurance, the percentage of insurance sold by a bank that may be underwritten by a single insurer, and the type of insurance products which may be sold by a bank, and restricting unfair business practices such as compelling the purchase of insurance products in return for a loan.</p>

2. Sector:	Financial Services
Sub-Sector:	Insurance
Obligations Concerned:	Cross-Border Trade (Article 10.5)
Level of Government:	National
Measures:	<p><i>Automobile Accident Compensation Assurance Act</i> (Law No. 11369, 22 February 2012)</p> <p><i>Act on the Indemnification for Fire-Caused Loss and the Purchase of Insurance Policies</i> (Law No. 10695, 19 May 2011)</p> <p><i>High-Pressure Gas Safety Control Act</i> (Law No. 11140, 31 December 2011)</p> <p><i>Safety Control and Business Regulation of Liquefied Petroleum Gas Act</i> (Law No. 10711, 24 May 2011)</p> <p><i>Urban Gas Business Act</i> (Law No. 10959, 25 July 2011)</p> <p><i>Seafarers Act</i> (Law No. 11141, 31 December 2011)</p> <p><i>Installation and Utilization of Sports Facilities Act</i> (Law No. 11169, 17 January 2012)</p> <p><i>Excursion Ship and Ferry Business Act</i> (Law No. 11344, 22 February 2012)</p> <p><i>Elevators Safety Management of Act</i> (Law No. 11343, 22 February 2012)</p> <p><i>Water-Related Leisure Activities Safety Act</i> (Law No. 10458, 9 March 2011)</p> <p><i>Juvenile Activity Promotion Act</i> (Law No. 10660, 19 May 2011)</p> <p><i>Compensation for Oil Pollution Damage Guarantee Act</i> (Law No. 9740, 27 May 2009)</p> <p><i>Air Transport Business Promotion Act</i> (Law No. 11196, 17 January 2012)</p>

Road Traffic Act (Law No. 11298, 10 February 2012)

Protection of Wild Fauna and Flora Act (Law No. 10893, 21 July 2011)

Trucking Transport Business Act (Law No. 10804, 15 June 2011)

Industrial Accident Compensation Insurance Act (Law No. 11569, 18 December 2012)

Construction Technology Management Act (Law No. 11180, 17 January 2012)

Nuclear Damage Compensation Act (Law No. 10912, 25 July 2011)

Framework Act on Logistics Policies (Law No. 11473, 1 June 2012)

Social Welfare Services Act (Law No. 11442, 23 May 2012)

Anglers Management and Promotion Act (Law No. 10801, 15 June 2011)

Electronic Finance Transaction Act (Law No. 11461, 1 June 2012)

Digital Signature Act (Law No. 10465, 29 March 2011)

Attorney-at-Law Act (Law No. 10922, 25 July 2011)

Laboratory Safety Environment Act (Law No. 10874, 21 July 2011)

Act on the Establishment and Operation of Private Teaching Institutes and Extracurricular Lessons (Law No. 10916, 25 July 2011)

Safety Management Act on Amusement Facilities for Children (Law No. 11394, 21 March 2012)

Act on Regulation of Marriage Brokerage Agency (Law No. 11461, 1 June 2012)

Business Affairs of Licensed Real Estate Agents and Report of Real Estate Transactions Act (Law No. 10580, 12 April 2011)

Certified Public Accountant Act (Law No. 10866, 21 July 2011)

Tourism Promotion Act (Law No. 10599, 14 April 2011)

Tramway Transaction Act (Law No. 11060, 16 September 2011)

Enforcement Decree of the Road Traffic Act (Presidential Decree No. 24091, 7 September 2012)

Door-To-Door Sales, Etc. Act (Law No. 11461, 1 June 2012)

Public Notice of Values and Appraisal of Real Estate Act (Law No. 10136, 17 March 2010)

Certified Tax Accountant Act (Law No. 11610, 1 January 2013)

Engineering Industry Promotion Act (Law No. 11235, 26 January 2012)

Act on Foreign Workers' Employment, Etc. (Law No. 11276, 1 February 2012)

Compensation for Aerospace Damage Guarantee Act (Law No.8852, 29 February 2008)

The Aerospace Development Promotion Act (Law No. 10447, 9 March 2011)

Regulation on the Designation and Control of Recreational Fishing Sites (Decree of the Ministry for Food, Agriculture, Forestry and Fisheries No. 296, 20 July 2012)

Enforcement Decree of the Certification of Seal Imprint Act (Presidential Decree No. 24247, 21 December 2012)

Standing Timber Act (Law No. 11303, 10 February 2012)

Framework Act on Electronic Commerce (Law No. 11461, 1 June 2012)

Act on Consumer Protection in Electronic Commerce, Etc. (Law No. 11461, 1 June 2012)

Act on Promotion of Information and Communications Network Utilization and Information Protection, Etc. (Law No. 11048, 15 September 2011)

Act on External Audit of Stock Companies (Law No. 9408, 3 February 2009)

Housing Act (Law No. 11590, 18 December 2012)

Aviation Act (Law No. 11244, 26 January 2012)

Maritime Transport Act (Law No. 11480, 1 June 2012)

Special Act on the Safety Control of Publicly Used Establishments (Law No. 11037, 4 August 2011)

Description:

In determining whether a natural person residing in Korea or juridical persons established in Korea has satisfied a legal obligation to purchase “compulsory” insurance services not listed in Annex 10-A (Cross-Border Trade), any such service supplied in the territory of a foreign country to such person is not considered.

However, services supplied outside the territory of Korea may be considered in satisfaction of the legal obligation if the required insurance cannot be purchased from an insurer established in Korea.

3. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 10.2)
Level of Government:	National
Measures:	<p><i>Banking Act</i> (Law No. 10866, 21 July 2011), Articles 15, 15-2, 15-3, and 16-2</p> <p><i>Enforcement Decree of the Banking Act</i> (Presidential Decree No.23427, 28 December 2011), Articles 1-6, 5, 9, 10, and Annex</p> <p><i>Financial Holding Company Act</i> (Law No. 10361, 8 June 2010), Articles 8 and 8-2</p> <p><i>Enforcement Decree of the Financial Holding Company Act</i> (Presidential Decree No. 23644, 29 February 2012), Article 6-3</p>
Description:	<ol style="list-style-type: none"> 1. A financial institution constituted under the laws of another country may own more than 10 percent of the shares of a commercial bank or bank holding company constituted under the laws of Korea only if that institution is an “internationally recognised financial institution².” 2. For the purposes of transparency: <ol style="list-style-type: none"> (a) the Financial Services Commission applies additional criteria for approval that are not inconsistent with this Agreement to the approval of ownership by an internationally recognised financial institution as described in paragraph 1;

² An “internationally recognised financial institution” includes any financial institution that has been rated by an international rating organisation at a level acceptable to the relevant Korean regulator or a financial institution that has demonstrated by alternative means acceptable to the relevant Korean regulator that it has an equivalent status.

- (b) a natural person shall not own more than 10 percent of the shares of a commercial bank or bank holding company constituted under the laws of Korea;
- (c) a corporate entity other than a financial institution, the main business of which is not financial services, shall not own more than nine percent of the shares of a commercial bank or bank holding company constituted under the laws of Korea. However, the ownership percentage can be increased to 10 percent if the corporate entity waives its ability to exercise voting rights relating to the shares in excess of nine percent; and
- (d) a corporate entity or a private equity fund invested by a corporate entity which is the largest stockholder of the relevant financial institution or participates in the management of the financial institution shall obtain approval of the Financial Services Commission when it intends to hold more than four percent of the shares of a commercial bank or bank holding company constituted under the laws of Korea.

4. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 10.2)
Level of Government:	National
Measures:	<p><i>Banking Act</i> (Law No. 10866, 21 July 2011), Article 58</p> <p><i>Enforcement Decree of the Banking Act</i> (Presidential Decree No.23427, 28 December 2011), Article 24-8 and Annex</p> <p><i>Regulation on Supervision of Banking Business</i> (Notice of the Financial Services Commission No. 2012-31, 26 December 2012), Articles 5-4, 11, and Annex</p>
Description:	Each branch location in Korea of a bank constituted under the laws of another country requires a separate license. A branch of a banking subsidiary, including one owned or controlled by investors of another country does not require such a license.

5. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Market Access for Financial Institutions (Article 10.4)
Level of Government:	National
Measures:	<i>Financial Investment Services and Capital Markets Act</i> (Law No. 11758, 5 April 2013), Articles 78, 373, 375, 379, and 386
Description:	Only the Korea Exchange and any other alternative trading systems licensed under the <i>Financial Investment Services and Capital Markets Act</i> may operate a securities or derivatives market in Korea.

6. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Market Access for Financial Institutions (Article 10.4)
Level of Government:	National
Measures:	<i>Financial Investment Services and Capital Markets Act</i> (Law No. 11758, 5 April 2013), Articles 166 and 294 through 323
Description:	Only the Korea Securities Depository may serve as the depository for listed and unlisted securities issued in Korea or as the intermediary for transfer of those securities between accounts of depositors in Korea.

7. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Market Access for Financial Institutions (Article 10.4)
Level of Government:	National
Measures:	<i>Financial Investment Services and Capital Markets Act</i> (Law No. 11758, 5 April 2013), Articles 298, 323-2, 323-3, 323-10 and 378
Description:	<p>Only the Korea Securities Depository and the Korea Exchange may perform clearing and settlement of securities and derivatives listed or traded on the Korea Exchange.</p> <p>Only central counter parties licensed under the <i>Financial Investment Services and Capital Markets Act</i> may perform clearing and settlement of financial investment services including securities and derivatives.</p>

8. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Cross Border Trade (Article 10.5)
Level of Government:	National
Measures:	<p><i>Financial Investment Services and Capital Markets Act</i> (Law No. 11758, 5 April 2013), Article 166</p> <p><i>Enforcement Decree of the Financial Investment Services and Capital Markets Act</i> (Presidential Decree No. 24497, 5 April 2013), Article 184</p>
Description:	A non-professional investor and some professional investors ³ shall make transactions through an investment broker licensed in Korea when the investor intends to trade securities denominated in foreign currencies and exchange-traded derivatives on foreign securities markets or foreign derivatives markets.

³ Institutional investors by Article 1-2 of the *Foreign Exchange Transaction Regulation* (Notice of the Ministry of Strategy and Finance No. 2009-2, 3 February 2009) are excluded.

9. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 10.2)
Level of Government:	National
Measures:	<p><i>Banking Act</i> (Law No. 10866, 21 July 2011), Articles 62 and 63</p> <p><i>Enforcement Decree of the Banking Act</i> (Presidential Decree No.23427, 28 December 2011), Articles 25 and 26</p> <p><i>Financial Investment Services and Capital Markets Act</i> (Law No. 11758, 5 April 2013), Article 65</p> <p><i>Enforcement Decree of the Financial Investment Services and Capital Markets Act</i> (Presidential Decree No. 24497, 5 April 2013), Article 65</p>
Description:	<p>A branch, located in Korea, of a bank constituted under the laws of another country must bring and maintain operating funds within Korea to be used for the purposes of determining the amount of funds to be raised or loans to be extended by such local branch.</p> <p>A branch, located in Korea, of a financial investment business entity constituted under the laws of another country must bring and maintain operating funds within Korea to be used for the purposes of managing risks arising from the business conducted by such local branch.</p> <p>For the purposes of the <i>Banking Act</i> and the <i>Financial Investment Services and Capital Markets Act</i>, such a branch is considered a separate legal entity from the bank or the financial investment business entity constituted under the laws of another country.</p>

10. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Market Access for Financial Institutions (Article 10.4)
Level of Government:	National
Measures:	<p><i>Credit Unions Act</i> (Law No. 11545, 11 December 2012), Article 7</p> <p><i>Mutual Savings Bank Act</i> (Law No. 10866, 21 July 2011), Article 6</p> <p><i>Specialized Credit Financing Business Act</i> (Law No. 11410, 21 March 2012), Article 5</p> <p><i>Financial Investment Services and Capital Markets Act</i> (Law No. 11758, 5 April 2013), Article 254, 258, 263, and 355</p> <p><i>Use and Protection of Credit Information Act</i> (Law No. 10465, 29 March 2011) Article 5</p> <p><i>Foreign Exchange Transaction Act</i> (Law No. 11407, 21 March 2012), Article 9</p>
Description:	<p>The following types of business shall not be conducted by a branch of a financial institution constituted under the laws of another country:</p> <ul style="list-style-type: none"> (a) credit unions; (b) mutual savings banks; (c) specialized capital finance companies; (d) foreign and won currency capital brokerage firms; (e) credit information companies; (f) general fund administration firms;

(g) collective investment vehicle appraisal companies;
and

(h) bond appraisal companies.

11. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Market Access for Financial Institutions (Article 10.4)
Level of Government:	National
Measures:	<i>Electronic Finance Transaction Act</i> (Law No. 11461, 1 June 2012), Article 30
Description:	A non-financial institution that seeks to offer certain electronic financial services in Korea may establish only as a subsidiary.

12. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 10.2)
Level of Government:	National
Measures:	<p><i>Korea Development Bank Act</i> (Law No. 10303, 17 May 2010)</p> <p><i>Industrial Bank of Korea Act</i> (Law No. 11501, 16 September 2011)</p> <p><i>Korea Housing Finance Corporation Act</i> (Law No.10924, 25 July 2011)</p> <p><i>Agricultural Cooperative Federation Act</i> (Law No. 11532, 11 December 2012)</p> <p><i>National Federation of Fisheries Cooperatives Act</i> (Law No. 11320, 17 February 2012)</p>
Description:	<p>Korea may grant:</p> <ul style="list-style-type: none"> (a) to one or more of the following financial institutions (collectively, Government-Sponsored Institutions or GSIs): <ul style="list-style-type: none"> (i) the Korea Development Bank; (ii) the Industrial Bank of Korea; (iii) the Korea Housing Finance Corporation; (iv) the National Agricultural Bank; and (v) the National Federation of Fisheries Cooperatives; and

- (b) special treatment, including the following:
 - (i) guarantees of loans to or bonds issued by the GSIs;
 - (ii) permission to issue more bonds per capital than similarly-situated non-GSIs;
 - (iii) reimbursement of losses incurred by GSIs;
and
 - (iv) exemption from public assets and certain taxes on capital, surplus, profit, or assets.

13. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Senior Management and Boards of Directors (Article 10.8)
Level of Government:	National
Measures:	<p><i>Korea Housing Finance Corporation Act</i> (Law No. 10924, 25 July 2011), Article 16</p> <p><i>Agricultural Cooperative Federation Act</i> (Law No. 11532, 11 December 2012), Article 49</p> <p><i>National Federation of Fisheries Cooperatives Act</i> (Law No. 11320, 17 February 2012), Article 51</p>
Description:	Chief, deputy executive officers and all members of the Board of Directors of the Korea Housing Finance Corporation, the National Agricultural Cooperative Federation, and the National Federation of Fisheries Cooperatives shall be Korean nationals.

14. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 10.2)
Level of Government:	National
Measures:	<i>Housing Act</i> (Law No. 11243, 26 January 2012), Article 75 <i>Rules on Provision of Housing</i> (Ordinance of the Ministry of Land, Transportation and Maritime Affairs No. 554, 21 December 2012), Article 5.2
Description:	Korea may limit the number of financial institutions designated to hold housing accounts, such as the National Housing Subscription Deposit Accounts.

15. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Market Access for Financial Institutions (Article 10.4)
Level of Government:	National
Measures:	<i>Foreign Exchange Transaction Act</i> (Law No. 11407, 21 March 2012), Article 9
Description:	Interbank Brokerage of Korean won spot transactions is limited to the two existing brokerage companies in the business.

Section B

16. Sector:	Financial Services
Sub-Sector:	Insurance
Obligations Concerned:	Cross-Border Trade (Article 10.5)
Level of Government:	National
Measures:	None
Description:	<p>Korea reserves the right not to consider any “compulsory” third-party insurance service supplied in the territory of a foreign country to a natural person in Korea or juridical person established therein, in determining whether such natural or juridical person has satisfied a legal obligation to purchase such “compulsory” third party insurance service not listed in Annex 10-A (Cross-Border Trade).</p> <p>However, services supplied outside the territory of Korea may be considered in satisfaction of the legal obligation if the required insurance cannot be purchased from an insurer established in Korea.</p>

17. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 10.2)
Level of Government:	National
Measures:	None
Description:	In the context of privatising government-owned or government-controlled entities that supply financial services, Korea reserves the right to adopt or maintain any measure relating to the continued guarantee or time-limited additional guarantee, of the obligations and liabilities of these entities.

18. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 10.2)
Level of Government:	National
Measures:	<i>Financial Investment Services and Capital Markets Act</i> (Law No. 11758, 5 April 2013)
Description:	<p>Korea reserves the right to limit ownership by foreign investors of the Korea Exchange and the Korea Securities Depository. In the event of public offering of shares of the Korea Exchange or the Korea Securities Depository, Korea reserves the right to limit shareholding by foreign persons in the relevant institution, if Korea ensures that:</p> <ul style="list-style-type: none"> (a) any shareholding interests held by foreign persons at the time of the public offering is preserved; and (b) following the public offering, the Korea Exchange or Korea Securities Depository assures access for financial institutions of Canada on the terms that are no less favourable than financial institutions of Korea in like circumstances.

APPENDIX III-A

Certain Measures Not Inconsistent with Article 10.2 or 10.4 or Subject to 10.10.1

1. The following measures are not inconsistent with Article 10.4 (Market Access for Financial Institutions):

- (a) an insurance company constituted in Korea may engage only in activities permitted by the relevant laws (Articles 10, 11, 11-2 and 11-3 of the *Insurance Business Act* (Law No. 10866, 21 July 2011) and Articles 15 and 16 of the *Enforcement Decree of the Insurance Business Act* (Presidential Decree No. 24097, 7 September 2012));
- (b) residents of Korea are not permitted to settle payment in Korea won for cross-border financial services supplied to them by residents of foreign countries. (Articles 5-11 and 7-8 to 7-10 of the *Foreign Exchange Transaction Regulation* (Notice of the Ministry of Strategy and Finance No. 2009-18, 30 September 2009));
- (c) banks and mutual savings banks in Korea are required to extend loans to small- or medium-sized companies. (Article 2 of the *Bank of Korea's Regulations on Credit Extension* (Monetary Policy Committee, 19 August 1999); and Article 11 of the *Mutual Savings Bank Act* (Law No. 10866, 21 July, 2011) and Article 8-2 of the *Enforcement Decree of the Mutual Savings Bank Act* (Presidential Decree No. 23987, 24 July 2012));
- (d) the overall net open position of foreign exchange banks, measured by the sum of the net short position or the sum of the net long positions, whichever is greater (short-hand method), is limited to 50 percent of the total equity capital at the end of the previous month (Article 11.2 of the *Foreign Exchange Transaction Act* (Law No. 11407, 21 March 2012); and Article 2-9 of the *Foreign Exchange Transaction Regulation* (Notice of the Ministry of Strategy and Finance No. 2009-18, 30 September 2009));

- (e) securities credit extensions are subject to restrictions on the maximum credit amount and use of proceeds. An investment trader or investment broker is only permitted to extend credit for the purpose related to the sale and purchase of securities (Article 72 of the *Financial Investment Services and Capital Markets Act* (Law No. 11758, 5 April 2013); Article 69 of the *Enforcement Decree of the Financial Investment Services and Capital Markets Act* (Presidential Decree No. 24497, 5 April 2013));
- (f) the value of lending to an individual credit card holder may be capped. (Article 24 of the *Specialized Credit Financing Business Act* (Law No. 11410, 21 March 2012));
- (g) a bank, financial investment business entity, or other financial institution constituted in Korea may only engage in activities permitted by the relevant laws (Articles 27, 27-2, and 28 of the *Banking Act* (Law No. 10866, 21 July 2011); Articles 40 and 41 of the *Financial Investment Services and Capital Markets Act* (Law No. 11758, 5 April 2013); and Articles 43 and 44 of the *Enforcement Decree of the Financial Investment Services and Capital Markets Act* (Presidential Decree No. 24497, 5 April 2013));
- (h) a financial institution is prohibited from acquiring real estate for non-business purpose. (Article 38 of the *Banking Act* (Law No. 10866, 21 July 2011); Article 105 of the *Insurance Business Act* (Law No. 10866, 21 July 2011));
- (i) non-resident of Korea may convert foreign currency into KRW (Korean won) only for actual use in Korea. (Articles 7-8 through 7-10 and Articles 7-36 through 7-39 of the *Foreign Exchange Transaction Regulations* (Notice of the Ministry of Strategy and Finance No. 2009-18, 30 September 2009)); and
- (j) Korea may restrict deposit interest rates, loan interest rates, other interest rates, maturity of deposit, and related fees (Article 30 of the *Banking Act* (Law No. 10866, 21 July 2011); the *Regulation on Financial Institutions' Loans and Deposit Rates* (Monetary Policy Committee, 24 December 2003); Articles 8, 11-2, and 15 of *Act on Registration of Credit Business, Etc. and Protection of Finance Users* (Law No. 11544, 11 December 2012); and Articles 5 and 9 of the *Enforcement Decree of the Act on Registration of Credit Business, Etc. and Protection of Finance Users* (Presidential Decree No. 24076, 31 August 2012)).

2. The following measures fall within Article 10.10.1 and that, therefore, Article 10.2 (National Treatment) does not prevent Korea from maintaining them:

- (a) the operating fund of a branch of a foreign insurance company will be considered as capital and the head office's capital will not be taken into consideration for the purposes of determining the amount of funds to be raised or loans to be extended by such local branch (Article 9.3 of the *Insurance Business Act* (Law No. 10866, 21 July 2011) and Article 25-2 of the *Enforcement Decree of the Insurance Business Act* (Presidential Decree No. 24097, 7 September 2012)); and
- (b) A branch in Korea of a foreign insurance company must maintain in the territory of Korea assets equal to the aggregate of the reserve for performance of liability and the reserve for emergency relating to the insurance contracts executed in Korea (Article 75 of the *Insurance Business Act* (Law No. 10866, 21 July 2011)).