

Text of the Canada–Panama Free trade agreement – Annex III: Financial Services

Non-Conforming Measures

1. Each Party has a Schedule to this Annex setting out:

- headnotes limiting or clarifying the commitments of a Party regarding the obligations described in subparagraphs (b) and (c);
- in Section I, the reservations taken by that Party under Article 12.10(1) and (2) (Financial Services - Non-Conforming Measures) regarding existing measures that do not conform with obligations imposed by:
 - Article 12.03 (Financial Services - National Treatment),
 - Article 12.04 (Financial Services - Most-Favoured-Nation Treatment),
 - Article 12.05 (Financial Services - Right of Establishment),
 - Article 12.06 (Financial Services - Cross-Border Trade), or
 - Article 12.09 (Financial Services - Senior Management and Boards of Directors);
- in Section II, the reservations taken by that Party under Article 12.10(3) (Financial Services - Non-Conforming Measures) for measures the Party may adopt or maintain that do not conform with obligations imposed by Article 12.03 (Financial Services - National Treatment), 12.04 (Financial Services - Most-Favoured-Nation Treatment), 12.05 (Financial Services - Right of Establishment), 12.06 (Financial Services - Cross-Border Trade) or 12.09 (Financial Services - Senior Management and Boards of Directors); and
- in Section III, the specific commitments to liberalize measures undertaken by that Party under Article 12.10(4) (Financial Services - Non Conforming Measures).

2. Each reservation in Section I may set out the following elements:

- **Sector** refers to the general sector in which the reservation is taken;
- **Sub-sector** refers to the specific sector in which the reservation is taken;
- **Industry Classification** refers to the activity covered by the reservation under the domestic industry classification codes;
- **Type of Reservation** specifies the obligation referred to in subparagraph 1(b) for which the reservation is taken;
- **Level of Government** indicates the level of government maintaining the measure for which the reservation is taken;

- **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:
 - means the measure as amended, continued or renewed as of the date of entry into force of this Agreement, and
 - includes a subordinate measure adopted or maintained under the authority of and consistent with the measure;
- **Description** sets out the non-conforming aspects of the existing measures for which the reservation is taken. It may also set out commitments for liberalization.

3. Each reservation in Section II sets out the following elements:

- **Sector** refers to the general sector in which the reservation is taken;
- **Sub-sector** refers to the specific sector in which the reservation is taken;
- **Type of Reservation** specifies the obligation referred to in subparagraph 1(c) for which the reservation is taken;
- **Level of Government** indicates the level of government maintaining the measure for which the reservation is taken; and
- **Description** sets out the scope of the sectors, sub-sectors or activities covered by the reservation.

4. In interpreting a reservation in Section I, all elements of the reservation are considered. A reservation is interpreted in light of the relevant provisions of the Chapter against which the reservation is taken. To the extent that:

- the **Measures** element is qualified by a specific reference in the **Description** element, the **Measures** element as so qualified prevails over all other elements; and
- the **Measures** element is not so qualified, the **Measures** element prevails 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 prevails, in which case the other elements prevail to the extent of that discrepancy.

5. In interpreting a reservation in Section II, all elements of the reservation are considered. The **Description** element prevails over all other elements.

6. Where a Party 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 against Article 12.03 (Financial Services - National Treatment), 12.04 (Financial Services - Most-Favoured-Nation Treatment), 12.05 (Financial Services - Right of Establishment) or 12.06 (Financial Services - Cross-Border

Trade) operates as a Schedule entry against Article 9.04 (Investment - National Treatment), 9.05 (Investment -- Most-Favored-Nation Treatment) or 9.07 (Investment - Performance Requirements) to the extent of that measure.

Schedule of Canada – 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 12.05 (Financial Services - Right of Establishment), enterprises 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 branches and subsidiaries.

Schedule of Panama – 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 Panama with respect to Article 12.05 (Financial Services - Right of Establishment), enterprises supplying financial services and constituted under the laws of Panama are subject to non-discriminatory limitations on juridical form. For example, limited liability partnerships and sole proprietorships with limited liability are generally not acceptable juridical forms for financial institutions in Panama. This headnote does not affect, or otherwise limit, a choice by an investor of the other Party between branches and subsidiaries.

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