(i) from the Area of a Party into the Area of the other Party;

(ii) in the Area of a Party by a person of that Party to a person of the other Party; or

(iii) by a national of a Party in the Area of the other Party;

but does not include the supply of a service by an investment of an investor of a Party, as defined in Article 96 in the Area of the other Party;

(b) the term "measures by a Party" means measures taken by:

(i) federal or central government, state, or prefecture or any other local authority; and

(ii) non-governmental bodies in the exercise of powers delegated by federal or central government, state, or prefecture or any other local authority;

(c) the term "service supplier of a Party" means a person of a Party that seeks to supply or supplies a service; and

(d) the term "supply of a service" includes the production, distribution, marketing, sale and delivery of a service.

Chapter 9
Financial Services

Article 107
Scope and Coverage

1. This Chapter shall apply to measures adopted or maintained by a Party affecting:

(a) cross-border trade in financial services;

(b) financial institutions of the other Party; and

(c) investors of the other Party, and investments of such investors, in financial institutions in the Party.

2. This Chapter shall not apply to measures pursuant to immigration laws and regulations.

3. Nothing in this Chapter shall be construed to prevent a Party, including its public entities, from exclusively conducting or providing in its Area:

(a) activities or services forming part of a public retirement plan or statutory system of social security; or

(b) activities or services for the account or with the guarantee or using the financial resources of the Party, including its public entities.

Article 108
Commitments under International Agreements

The Parties shall be bound by the terms and conditions that each Party is committed to under the Organisation for Economic Cooperation and Development Code of Liberalisation of Capital Movements, as may be amended, and the GATS, including the Understanding on Commitments in Financial Services, and under other international agreements to which both Parties are parties.

Note: Nothing in this Chapter shall be construed to affect the terms and conditions committed to by either Party under the respective agreements referred to in this Article.

Article 109
Non-Application of Chapter 15

The dispute settlement procedure provided for in Chapter 15 shall not apply to this Chapter.

Article 110
Exceptions

Notwithstanding the provisions of this Chapter, Chapter 7 and Chapter 8, a Party shall not be prevented from adopting or maintaining measures for prudential reasons with respect to financial services, including for the protection of investors, depositors, policy holders, policy claimants or persons to whom a fiduciary duty is owed by a financial institution or a cross-border financial service supplier, or to ensure the soundness, integrity and stability of a Party’s financial system.

Article 111
Relation to Other Chapters

The provisions of Chapters 7 and 8 shall not apply to measures referred to in paragraph 1 of Article 107.

Article 112
Definitions

For the purposes of this Chapter:

(a) the term “cross-border financial service supplier” means a person of a Party that is engaged in the business of supplying financial services within the Area of the Party and that seeks to supply or supplies financial services through the cross-border supply of such services;

(b) the term “cross-border trade in financial services” means the supply of a financial service:

(i) from the Area of a Party into the Area of the other Party;

(ii) in the Area of a Party by a person of that Party to a person of the other Party; or

(iii) by a national of a Party in the Area of the other Party;

but does not include the supply of a service by an investment of an investor of a Party, in the Area of that other Party;

(c) the term “financial institution” means any enterprise that is authorized to do business and regulated or supervised as a financial institution under the law of the Party in which it is located;

(d) the term “financial institution of the other Party” means a financial institution located in a Party that is owned or controlled by persons of the other Party;

(e) the term “financial service” means a service of a financial nature, including insurance, and a service incidental or auxiliary to a service of a financial nature;

(f) the term “investment” means "investment" as defined in Article 96, except that, with respect to “loan” and “debt security” referred to in that Article:

(i) a loan to or debt security issued by a financial institution is an investment only where it is treated as regulatory capital by the Party in which the financial institution is located; and

(ii) a loan granted by or debt security owned by a financial institution, other than a loan to or debt security of a financial institution referred to in subparagraph (i) above, is not an investment;

for greater certainty,

(iii) a loan to, or debt security issued by, a Party or a state enterprise thereof is not an investment; and

(iv) a loan granted by or debt security owned by a cross-border financial service supplier, other than a loan to or debt security issued by a financial institution referred to in subparagraph (i) above, is an investment under Chapter 7 if such loan or debt security meets the criteria for investments set out in Article 96;

(g) the term "investor of a Party" means a Party or state enterprise thereof, or a person of that Party, that seeks to make, makes, or has made an investment; and

(h) the term "public entity" means a central bank or a monetary authority of a Party, or any financial institution owned or controlled by a Party.

Chapter 10
Entry and Temporary Stay of Nationals for Business Purposes

Article 113
General Principles

1. This Chapter reflects the preferential trading relationship between the Parties, the desirability of facilitating entry and temporary stay on a reciprocal basis and of establishing transparent criteria and procedures for entry and temporary stay, and the need to ensure border security and to protect the domestic labor force and permanent employment in either Party.