

ANNEX III
FINANCIAL SERVICES NON-CONFORMING MEASURES

SCHEDULE OF KOREA

INTRODUCTORY NOTE

1. The Schedule of Korea in this Annex sets out:
 - (a) headnotes that limit or clarify the commitments of Korea with respect to the obligations described in subparagraph (b)(i) through (v) and in subparagraph (c),
 - (b) in Section A, in accordance with Article 12.9 (Non-Conforming Measures), the existing measures of Korea that do not conform with some or all of the obligations imposed by:
 - (i) Article 12.2 (National Treatment);
 - (ii) Article 12.3 (Most-Favored-Nation Treatment);
 - (iii) Article 12.4 (Market Access for Financial Institutions);
 - (iv) Article 12.5 (Cross-Border Trade); or
 - (v) Article 12.8 (Senior Management and Boards of Directors), and
 - (c) in Section B, in accordance with Article 12.9 (Non-conforming Measures), the specific sectors, sub-sectors, 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 12.2 (National Treatment), 12.3 (Most-Favored-Nation Treatment), 12.4 (Market Access for Financial Institutions), 12.5 (Cross-Border Trade), or 12.8 (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 article(s) referred to in paragraph 1 (b) that, in accordance with Article 12.9.1(a), shall 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** 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; 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 article(s) referred to in paragraph 1(c) that, pursuant to Article 12.9.2, shall 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, sub-sectors, or activities covered by the entry.

4. For entries in Section A, in accordance with Article 12.9.1(a), and subject to Article 12.9.1(c), the articles of this Agreement specified in the **Obligations Concerned** element of an entry shall 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 a Specific Commitment in Annex 12C (Specific Commitments).

5. For entries in Section B, in accordance with Article 12.9.2, the articles of this Agreement specified in the **Obligations Concerned** element of an entry shall not apply to the sectors, subsectors, and activities identified in the **Description** element of that entry.

6. Where Korea 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 12.2 (National Treatment), 12.3 (Most-Favored-Nation Treatment), 12.4 (Market Access for Financial Institutions), or 12.5 (Cross-Border Trade) shall operate as a Schedule entry with respect to Article 9.3 (National Treatment), 9.4 (Most-Favored-Nation Treatment), or 9.7 (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 12.2 (National Treatment) or 12.4 (Market Access for Financial Institutions) or subject to Article 12.10.1.

8. An entry in Annex I or Annex II specifying that Article 10.2 (National Treatment) shall not apply to the non-conforming aspects of a law, regulation, or other measure, shall not be construed as limiting a Party's obligation under Article 12.5.1 to accord national treatment with respect to the supply of services specified in Annex 12B (Cross-Border Trade) to cross-border financial service suppliers of the other Party.

APPENDIX III-A
CERTAIN MEASURES NOT INCONSISTENT WITH ARTICLE 12.4 OR SUBJECT TO 12.10.1

The following measures are not inconsistent with Article 12.4 (Market Access for Financial Institutions). Any revision, amendment or modification of the following measures or related laws will not be construed to be inconsistent with Article 12.4 (Market Access for Financial Institutions) to the extent that it does not conflict with the spirit of the original measure:

- (a) an insurance company constituted in Korea may engage only in activities permitted by the relevant laws. (Articles 10 and 11 of the *Insurance Business Act* (Law No. 7971, August 29, 2006) and Articles 15 and 16 of the *Enforcement Decree of the Insurance Business Act* (Presidential Decree No. 19493, May 30, 2006));
- (b) Korean insurance companies are required to extend loans to small- or medium- sized companies. (Article 5-9 of the *Regulation on Supervision of Insurance Business* (Financial Services Commission Notification No. 2009-43, July 22, 2009));
- (c) residents of Korea are not permitted to settle payment in KRW (Korean 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* (Notification of the Ministry of Strategy and Finance No. 2009-18, September 30, 2009));
- (d) 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, August 19, 1999); and Article 11 of the *Mutual Savings Bank Act* (Law No. 8143, December 30, 2006) and Article 8-2 of the *Enforcement Decree of the Mutual Savings Bank Act* (Presidential Decree No. 19464, May 3, 2006));
- (e) 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. 9351, January 30, 2009); and Article 2-9 of the *Foreign Exchange Transaction Regulation* (Notification of the Ministry of Strategy and Finance No. 2009-18, September 30, 2009));
- (f) 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 purpose related to the sale and purchase of securities. (Article 72 of the *Financial Investment Services and Capital Markets Act* (Law No. 9407, February 3, 2009); Article 69 of the *Enforcement Decree of the Financial Investment Services and Capital Markets Act* (Presidential Decree No. 21291, February 3, 2009));

- (g) the value of lending to an individual credit card holder may be capped. (Article 24 of the *Specialized Credit Financing Business Act* (Law No. 7929, April 28, 2006));
- (h) 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 and 28 of the *Banking Act* (Law No. 7428, March 31, 2005); and Articles 40 and 41 of the *Financial Investment Services and Capital Markets Act* (Law No. 9407, February 3, 2009) and Articles 43 and 44 of the *Enforcement Decree of the Financial Investment Services and Capital Markets Act* (Presidential Decree No. 21291, February 3, 2009));
- (i) a financial institution is prohibited from acquiring real estate for non-business purpose. (Article 38 of the *Banking Act* (Law No. 7428, March 31, 2005); Article 105 of the *Insurance Business Act* (Law No. 8902, March 14, 2008);
- (j) non-resident of Korea may convert foreign currency into KRW (Korean won) only for actual use in Korea. (Articles 7-8 to 7-10 and Articles 7-36 to 7-39 of the *Foreign Exchange Transaction Regulations* (Notification of the *Ministry of Strategy and Finance* No. 2009-18, September 30, 2009)); and
- (k) 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. 7428, March 31, 2005); the *Regulation on Financial Institutions' Loans and Deposit Rates* (Monetary Policy Committee, December 24, 2003); Articles 8 and 15 of the *Act on Registration of Credit Business and Protection of Finance Users* (Law No. 7523, May 31, 2005); and Articles 5 and 9 of the *Enforcement Decree of the Act on Registration of Credit Business and Protection of Finance Users* (Presidential Decree No. 19019, August 31, 2005)).

The following measures fall within Article 12.10.1 and that, therefore, Article 12.2 (National Treatment) does not prevent Korea from maintaining them. Any revision, amendment or modification of the following measures or related laws will also fall within the ambit of Article 12.10.1:

- (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 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. 8902, March 14, 2008)); 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. 8902, March 14, 2008)).

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 12.4 (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 form.¹
3. The commitments of Korea under Articles 12.2 (National Treatment) and 12.4 (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 under Paragraph 1(c) of Article 12.9 (Non-Conforming Measures) with respect to Article 12.4 (Market Access for Financial Institutions) in the following manner: Article 12.9.1(c) shall apply only to non-conforming measures relating to 12.4(a) and not to those non-conforming measures relating to Article 12.4(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.

SECTION A

1. Sector:	Financial Services
Sub-Sector:	Insurance
Obligations Concerned:	Market Access for Financial Institutions (Article 12.4)
Level of Government:	Central
Measures:	Article 91 of the <i>Insurance Business Act</i> (Law No. 7971, August 29, 2006); Article 40 of the <i>Enforcement Decree of the Insurance Business Act</i> (Presidential Decree No. 19493, May 30, 2006)
Description:	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. For transparency purposes, Korea notes that it restricts the manner of sales of insurance products such as the number of windows in a single bank location devoted to the sale of insurance, and limitations on the percentage of insurance sold by a bank that may be underwritten by a single insurer.

2. Sector:	Financial Services
Sub-Sector:	Insurance
Obligations Concerned:	Cross-Border Trades (Article 12.5)
Level of Government:	Central
Measures:	<i>Automobile Accident Compensation Assurance Act</i> (Law No. 7100, January 20, 2004) <i>Act on the Indemnification for Fire-Caused Loss and the Purchase of Insurance Policies</i> (Law No. 7186, March 11, 2004) <i>High-Pressure Gas Safety Control Act</i> (Law No. 7504, May 26, 2005) <i>Safety Control and Business Regulation of Liquefied Petroleum Gas Act</i> (Law No. 7428, March 31, 2005) <i>Urban Gas Business Act</i> (Law No. 7505, May 26, 2005) <i>Seafarers Act</i> (Law No. 8041, October 4, 2006) <i>Installation and Utilization of Sports Facilities Act</i> (Law No. 7913, March 24, 2006) <i>Excursion Ship and Ferry Business Act</i> (Law No. 7985, September 22, 2006) <i>Manufacture and Management of Elevators Act</i> (Law No. 7279, December 31, 2004) <i>Water-Related Leisure Activities Safety Act</i> (Law No. 8016, September 27, 2006) <i>Juvenile Activity Promotion Act</i> (Law No. 8014, September 27, 2006) <i>Compensation for Oil Pollution Damage Guarantee Act</i> (Law No. 7002, December 11, 2003) <i>Air Transport Business Promotion Act</i> (Law No. 6621, January 19, 2002) <i>Road Traffic Act</i> (Law No. 7969, July 19, 2006)

Act on Contracts to Which the State is a Party (Law No. 8050, October 4, 2006)

Protection of Wild Fauna and Flora Act (Law No. 8045, October 4, 2006)

Trucking Transport Business Act (Law No. 8138, December 30, 2006)

Industrial Accident Compensation Insurance Act (Law No. 7796, December 29, 2005)

Construction Technology Management Act (Law No. 7305, December 31, 2004)

Nuclear Damage Compensation Act (Law No. 7188, March 11, 2004)

Goods Distribution Promotion Act (Law No. 8014, September 27, 2006)

Social Welfare Services Act (Law No. 7918, March 24, 2006)

Fishing Boats for Anglers Act (Law No. 7642, July 29, 2005)

Electronic Finance Transaction Act (Law No. 7929, April 28, 2006)

Digital Signature Act (Law No. 7813, December 30, 2005)

Attorney-at-Law Act (Law No. 7894, March 24, 2006)

Laboratory Safety Environment Act (Law No. 7425, March 31, 2005)

Description:

In determining whether a natural person resident in Korea or juridical persons established in Korea has satisfied a legal obligation to purchase “compulsory” insurance services not listed in Annex 12B (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 12.2)
Level of Government:	Central
Measures:	Articles 15 and 16-2 of the <i>Banking Act</i> (Law No. 7428, March 31, 2005) Article 5 and Annex of the <i>Enforcement Decree of the Banking Act</i> (Presidential Decree No. 19422, March 29, 2006) Articles 8 and 8-2 of the <i>Financial Holding Company Act</i> (Law No. 7529, March 31, 2005) Article 6-3 of the <i>Enforcement Decree of the Financial Holding Company Act</i> (Presidential Decree No. 19422, March 29, 2006)
Description:	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 recognized financial institution.”² 2. For purposes of transparency: (a) the <i>Financial Services Commission</i> applies additional criteria for approval that are not inconsistent with this Agreement to approval of ownership by an internationally recognized financial institution as described in paragraph 1. (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 four percent of the shares of a commercial bank or bank holding company constituted under the laws

² An “internationally recognized financial institution” includes any financial institution that has been rated by an international rating organization 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.

of Korea. 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 four percent.

4. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 12.2)
Level of Government:	Central
Measures:	Article 58 of the <i>Banking Act</i> (Law No. 7428, March 31, 2005) Paragraph 17-B of the <i>Guideline on Grant of Banking Business Approval</i> (July 23, 2004) Article 10 of the <i>Regulation on Supervision of Banking Business</i> (<i>Financial Supervisory Committee</i> Notification No. 2006-87, December 28, 2006)
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 12.4)
Level of Government:	Central
Measures:	Articles 373, 375, 379, and 386 of the <i>Financial Investment Services and Capital Markets Act</i> (Law No. 9407, February 3, 2009)
Description:	Only the Korea Exchange 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 12.4)
Level of Government:	Central
Measures:	Articles 294 through 323 and 166 of the <i>Financial Investment Services and Capital Markets Act</i> (Law No. 9407, February 3, 2009)
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 12.4)
Level of Government:	Central
Measures:	Articles 298, 378 and 166 of the <i>Financial Investment Services and Capital Markets Act</i> (Law No. 9407, February 3, 2009) Article 178 of the <i>Enforcement Decree of the Financial Investment Services and Capital Markets Act</i> (Presidential Decree No. 21291, February 3, 2009)
Description:	Only the Korea Securities Depository and the Korea Exchange may perform liquidation and settlement of securities and derivatives listed or traded on the Korea Exchange.

8. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Cross Border Trade (Article 12.5)
Level of Government:	Central
Measures:	Article 166 of the <i>Financial Investment Services and Capital Markets Act</i> (Law No. 9407, February 3, 2009) Article 184 of the <i>Enforcement Decree of the Financial Investment Services and Capital Markets Act</i> (Presidential Decree No. 21291, February 3, 2009)
Description:	A non-professional investor (including some professional investors ³) shall make transactions through an investment broker licensed in Korea when he/she 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* (Notification of the Ministry of Strategy and Finance No. 2009-2, February 3, 2009) are excluded.

9. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 12.2)
Level of Government:	Central
Measures:	Articles 62 and 63 of the <i>Banking Act</i> (Law No. 7428, March 31, 2005) Articles 25 and 26 of the <i>Enforcement Decree of the Banking Act</i> (Presidential Decree No. 19422, March 29, 2006) Article 65 of the <i>Financial Investment Services and Capital Markets Act</i> (Law No. 9407, February 3, 2009) Article 65 of the <i>Enforcement Decree of the Financial Investment Services and Capital Markets Act</i> (Presidential Decree No. 21291, February 3, 2009)
Description:	A branch in Korea of a bank or a financial investment business entity constituted under the laws of another country must bring and maintain operating funds within Korea, which shall be used for purposes of determining the amount of funds to be raised or loans to be extended by such local branch. For 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.

10. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Market Access for Financial Institutions (Article 12.4)
Level of Government:	Central
Measures:	Article 7 of the <i>Credit Unions Act</i> (Law No. 8145, December 30, 2006) Article 6 of the <i>Mutual Savings Bank Act</i> (Law No. 8143, December 30, 2006) Article 5 of the <i>Specialized Credit Financing Business Act</i> (Law No. 7929, April 28, 2006) Article 355 of the <i>Financial Investment Services and Capital Markets Act</i> (Law No. 9407, February 3, 2009) Article 5 of the <i>Use and Protection of Credit Information Act</i> (Law No. 7883, March 24, 2006) Article 9 of the <i>Foreign Exchange Transaction Act</i> (Law No. 8050, October 4, 2006) Articles 254, 258, and 263 of the <i>Financial Investment Services and Capital Markets Act</i> (Law No. 9407, February 3, 2009)
Description:	The following types of business shall not be conducted by a branch of a financial institution constituted under the laws of another country: (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 12.4)
Level of Government:	Central
Measures:	Article 30 of the <i>Electronic Finance Transaction Act</i> (Law No. 7929, April 28, 2006)
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 12.2)
Level of Government:	Central
Measures:	The <i>Korea Development Bank Act</i> (Law No. 9703, May 21, 2009) The <i>Korea Finance Corporation Act</i> (Law No. 9741, May 27, 2009) The <i>Industrial Bank of Korea Act</i> (Law No. 9460, February 6, 2009) The <i>Korea Housing Finance Corporation Act</i> (Law No. 7882, March 24, 2006) The <i>Agricultural Cooperative Federation Act</i> (Law No. 7638, July 29, 2005) The <i>National Federation of Fisheries Cooperatives Act</i> (Law No. 7611, July 21, 2005)
Description:	Korea may grant (a) to one or more of the following financial institutions (collectively, Government-Sponsored Institutions or GSIs): (i) The Korea Development Bank; (ii) Korea Finance Corporation (iii) Industrial Bank of Korea; (iv) Korea Housing Finance Corporation; (v) the National Agricultural Cooperative Federation; and (vi) the National Federation of Fisheries Cooperatives (b) special treatment, including but not limited to 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; or
- (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 12.8)
Level of Government:	Central
Measures:	Article 16 of the <i>Korea Housing Finance Corporation Act</i> (Law No. 7882, March 24, 2006) Article 49 of the <i>Agricultural Cooperative Federation Act</i> (Law No. 7638, July 29, 2005) Article 51 of the <i>National Federation of Fisheries Cooperatives Act</i> (Law No. 7611, July 21, 2005)
Description:	Chief and 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 must be Korean nationals.

14. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 12.2)
Level of Government:	Central
Measures:	Article 75 of the <i>Housing Act</i> (Law No. 8050, October 4, 2006) Paragraph 2 of Article 5 of the <i>Rules on Provision of Housing</i> (Ordinance of the <i>Ministry of Construction and Transportation</i> No. 531, August 18, 2006)
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 12.4)
Level of Government:	Central
Measures:	Article 9 of the <i>Foreign Exchange Transaction Act</i> (Law No. 8050, October 4, 2006)
Description:	Interbank Brokerage of KRW (Korean won) spot transactions is limited to the two existing brokerage companies in the business.

SECTION B

1. Sector:	Financial Services
Sub-Sector:	Insurance
Obligations Concerned:	Cross-Border Trades (Article 12.5)
Level of Government:	Central
Measures:	None
Description:	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 12B (Cross-Border Trade). 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.

2. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 12.2)
Level of Government:	Central
Measures:	None
Description:	In the context of privatizing 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.

3. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 12.2)
Level of Government:	Central
Measures:	<i>Financial Investment Services and Capital Markets Act</i> (Law No. 9407, February 3, 2009)
Description:	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, provided that Korea shall ensure that (1) any shareholding interests held by foreign persons at the time of the public offering shall be preserved, and (2) following the public offering, the Exchange or Depository shall assure access for financial institutions of Peru.

ANNEX III
FINANCIAL SERVICES NON-CONFORMING MEASURES

SCHEDULE OF PERU

INTRODUCTORY NOTE

1. The Schedule of Peru in this Annex sets out:
 - (a) headnotes that limit or clarify the commitments of Peru with respect to the obligations described in subparagraph (b)(i) through (b)(v) and in subparagraph (c);
 - (b) in Section A, in accordance with Article 12.9 (Non-Conforming Measures), the existing measures of Peru that do not conform with some or all of the obligations imposed by:
 - (i) Article 12.2 (National Treatment),
 - (ii) Article 12.3 (Most-Favored-Nation Treatment),
 - (iii) Article 12.4 (Market Access for Financial Institutions),
 - (iv) Article 12.5 (Cross-Border Trade), or
 - (v) Article 12.8 (Senior Management and Boards of Directors); and
 - (c) in Section B, in accordance with Article 12.9 (Non-Conforming Measures), the specific sectors, sub-sectors, or activities for which Peru may maintain existing, or adopt new or more restrictive, measures that do not conform with the obligations imposed by Articles 12.2 (National Treatment), 12.3 (Most-Favored-Nation Treatment), 12.4 (Market Access for Financial Institutions), 12.5 (Cross-Border Trade), or 12.8 (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 article(s) referred to in paragraph 1(b) that, pursuant to Article 12.9.1(a), shall 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** 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; 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 article(s) referred to in paragraph 1(c) that, pursuant to Article 12.9.2, shall 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, sub-sectors, or activities covered by the entry.
4. For entries in Section A, in accordance with Article 12.9.1(a), and subject to Article 12.9.1(c), the Articles of this Agreement specified in the **Obligations Concerned** element of an entry shall not apply to the non-conforming aspects of a 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 a Specific Commitment in Annex 12C (Specific Commitments).
5. For entries in Section B, in accordance with Article 12.9.2, the Articles of this Agreement specified in the **Obligations Concerned** element of an entry shall not apply to the sectors, sub-sectors, and activities identified in the **Description** element of that entry.
6. Where Peru 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 12.2 (National Treatment), 12.3 (Most-Favored-Nation Treatment), 12.4 (Market Access for Financial Institutions), or 12.5 (Cross-Border Trade) shall operate as a Schedule entry with respect to Article 9.3 (National Treatment), 9.4 (Most-Favored-Nation Treatment), or 9.7 (Performance Requirements) to the extent of that measure.
7. An entry in Annex I or Annex II specifying that Article 10.2 (National Treatment) shall not apply to the non-conforming aspects of a law, regulation, or other measure, shall not

be construed as limiting a Party's obligation under Article 12.5.1 to accord national treatment with respect to the supply of services specified in Annex 12B (Cross-Border Trade) to cross-border financial service suppliers of the other Party.

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 Peru with respect to Article 12.4 (Market Access for Financial Institutions), juridical persons supplying financial services constituted under the laws of Peru are subject to non-discriminatory limitations on juridical form.¹
3. Paragraph 1(c) of Article 12.9 (Non-Conforming Measures) shall not apply to those non-conforming measures relating to paragraph (b) of Article 12.4 (Market Access for Financial Institutions).

¹ For example, limited liability partnerships and sole proprietorships with limited liability are generally not acceptable juridical forms for financial institutions in Peru. This headnote does not affect, or otherwise limit, a choice by an investor of the other Party between branches and subsidiaries.

SECTION A

1. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligation concerned:	Market Access for Financial Institutions (Article 12.4)
Level of Government:	Central
Measures:	<i>General Law of the Financial and Insurance Systems and Organic Law of the Superintendency of Banking and Insurance (Ley General del Sistema Financiero y del Sistema de Seguros y Orgánica de la Superintendencia de Banca y Seguros), Law N° 26702 and its amendments.</i>
Description:	A financial institution of the other Party providing banking services and established in Peru through a branch must assign to its branch certain capital, which must be located in Peru. In addition to measures that Peru may impose consistent with paragraph 1 of Article 12.10 (Exceptions) the operations of the branch are limited by its capital located in Peru.

2. Sector:	Financial Services
Sub-Sector:	Insurance and Insurance Related Services
Obligation concerned:	Market Access for Financial Institutions (Article 12.4)
Level of Government:	Central
Measures:	<i>General Law of the Financial and Insurance Systems and Organic Law of the Superintendency of Banking and Insurance (Ley General del Sistema Financiero y del Sistema de Seguros y Orgánica de la Superintendencia de Banca y Seguros), Law N° 26702 and its amendments.</i>
Description:	A financial institution of the other Party providing insurance or insurance related services and established in Peru through a branch must assign to its branch certain capital, which must be located in Peru. In addition to measures that Peru may impose consistent with paragraph 1 of Article 12.10 (Exceptions) the operations of the branch are limited by its capital located in Peru.

3. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligation concerned:	Cross-Border Trade (Article 12.5)
Level of Government:	Central
Measures:	Consolidated Text of the <i>Securities Market Law</i> (Texto Unico Ordenado de la <i>Ley del Mercado de Valores</i>), approved by Supreme Decree N° 093-2002-EF (<i>Decreto Supremo</i> N° 093-2002-EF); articles 280, 333, 337 and Seventeenth Final Provision. <i>General Law of the Financial and Insurance Systems and Organic Law of the Superintendency of Banking and Insurance (Ley General del Sistema Financiero y del Sistema de Seguros y Orgánica de la Superintendencia de Banca y Seguros)</i>, Law N° 26702 and its amendments; articles 136 and 296.
Description:	Financial institutions constituted under the laws of Peru and debt securities offered in a primary or secondary public offering in the territory of Peru must be rated by credit rating companies constituted under the laws of Peru. They may also be rated by other credit rating agencies, but only in addition to the mandatory rating.

4. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligation concerned:	National Treatment (Article 12.2)
Level of Government:	Central
Measures:	<i>General Law of the Financial and Insurance Systems and Organic Law of the Superintendency of Banking and Insurance (Ley General del Sistema Financiero y del Sistema de Seguros y Orgánica de la Superintendencia de Banca y Seguros), Law N° 26702 and its amendments</i> <i>Law establishing the Banco Agropecuario (Ley de creación del Banco Agropecuario), Law N°27603</i> <i>Law establishing the Corporación Financiera de Desarrollo (COFIDE) (Ley de creación de la Corporación Financiera de Desarrollo (COFIDE)), Law Decree N° 208 and Law N° 25382</i> <i>Law establishing the Banco de la Nación (Ley de creación del Banco de la Nación), Law N°16000</i> Law N° 28579, <i>Fondo MiVivienda</i> Supreme Decree N° 157-90-EF Supreme Decree N° 07-94-EF and its amendments
Description:	Peru may grant advantages or exclusive rights, without limitation, to one or more of the following financial entities, so long as they are partially or fully owned by the State: <i>Corporación Financiera de Desarrollo (COFIDE), Banco de la Nación, Banco Agropecuario, Fondo Mivivienda, Cajas Municipales de Ahorro y Crédito, and the Caja Municipal de Crédito Popular.</i> Examples of such advantages are the following:² The <i>Banco de la Nación</i> and <i>Banco Agropecuario</i> are not required to diversify their risk; and

² For greater certainty, and notwithstanding the location of this non-conforming measure within Section A of this Schedule, the Parties understand that the advantages or exclusive right that Peru may grant to the specified entities are not limited only to the cited examples.

The *Cajas Municipales de Ahorro y Crédito* may directly sell collateral they repossess in cases of loan default, in accordance with pre-established procedures.

5. Sector:	Financial Services
Sub-Sector:	Banking and other financial services (Excluding Insurance)
Obligations concerned:	Market Access for Financial Institutions (Article 12.4)
Level of Government:	Central
Measures:	Consolidated Text of the <i>Securities Market Law</i> (Texto Unico Ordenado de la <i>Ley del Mercado de Valores</i>), approved by Supreme Decree N° 093-2002-EF (<i>Decreto Supremo</i> N° 093-2002-EF); articles 130, 167, 185, 204, 223, 259, 269, 270, 302, 324 and Seventeenth Final Provision Legislative Decree N° 862, <i>Law of the Investment Funds and their Management Corporations</i> (<i>Ley de Fondos de Inversión y sus Sociedades Administradoras</i>), article 12 Law N° 26361, <i>Law on Commodities Exchange</i> (<i>Ley sobre Bolsas de Productos</i>), modified by Law N° 27635; articles 2, 9 and 15. Law Decree N° 22014, article 1. <i>Consolidated Text of the Law of Private Pension Funds</i> (Texto Único Ordenado de la <i>Ley del Sistema Privado de Administración de Fondos de Pensiones</i>), approved by Supreme Decree N° 054-97-EF; article 13; and the <i>Regulation of the Consolidated Text of the Law of Private Pension Funds</i> (Reglamento del Texto Único Ordenado de la <i>Ley del Sistema Privado de Administración de Fondos de Pensiones</i>), approved by Supreme Decree N° 004-98-EF; article 18.
Description:	Financial institutions established in Peru to supply financial services in the securities or commodities markets or financial services related to asset management, including pension fund managers, must be constituted under the laws of Peru. Therefore, financial institutions of the other Party established in Peru to supply these financial services may not be established as branches or agencies.

6. Sector:	Financial Services
Sub-Sector:	All
Obligation concerned:	Cross-Border Trade (Article 12.5)
Level of Government:	Central
Measures:	<i>General Law of the Financial and Insurance Systems and Organic Law of the Superintendency of Banking and Insurance (Ley General del Sistema Financiero y del Sistema de Seguros y Orgánica de la Superintendencia de Banca y Seguros), Law N° 26702 and its amendments</i>
Description:	Creditors domiciled in Peru have legal preference with regard to the assets located in Peru of a branch of a foreign financial institution, in case of liquidation of the financial institution or its branch in Peru.

SECTION B

1. Sector:	Financial Services
Sub-Sector:	Social services
Obligation concerned:	Market Access for Financial Institutions (Article 12.4)
Level of Government:	Central
Description:	Peru reserves the right to adopt or maintain measures that do not conform with the obligations of Article 12.4(a)(ii) and (iii) with respect to the supply of services described in Article 12.1.3(a).

2. Sector:	Financial Services
Sub-Sector:	Insurance and insurance-related services
Obligation concerned:	Cross-Border Trade (Article 12.5)
Level of Government:	Central
Measure:	Law N° 27181 and its Regulation approved by Supreme Decree 024-2002-MTC Law N° 26790, <i>Law on the Modernization of the Social Security in Health (Ley de la Modernización de la Seguridad Social en Salud)</i>, and its Regulation approved by Supreme Decree N° 03-98-SA
Description:	Peru reserves the right to adopt or maintain measures that restrict the acquisition of obligatory insurance outside of Peru, or that require that obligatory insurance be purchased from suppliers established in Peru, such as “Seguro Obligatorio de Accidentes de Transito (SOAT)” and “Seguro Complementario de Trabajo en Riesgo”. These restrictions shall not apply to any insurance covered by paragraphs 4 through 6 of Annex 12B (Cross-Border Trade).