

CHAPTER ELEVEN FINANCIAL SERVICES

ARTICLE 11.1: SCOPE AND COVERAGE

1. This Chapter applies to measures adopted or maintained by a Party relating to:
 - (a) financial institutions of the other Party; and
 - (b) cross-border trade in financial services.
2. Chapter Ten (Cross-Border Trade in Services) applies to measures described in Paragraph 1 only to the extent that such Chapter or an Article of such Chapter is incorporated into this Chapter.
 - (a) Article 10.11 (Denial of Benefits) is hereby incorporated into and made a part of this Chapter.
 - (b) Article 10.10 (Transfers and Payments) is incorporated into and made a part of this Chapter to the extent that cross-border trade in financial services is subject to obligations pursuant to Article 11.5.
3. This Chapter does not apply to measures adopted or maintained by a Party relating to:
 - (a) activities or services forming part of a public retirement plan or statutory system of social security; or
 - (b) activities or services conducted for the account or with the guarantee or using the financial resources of the Party, including its public entities,

except that this Chapter shall apply if a Party allows any of the activities or services referred to in subparagraphs (a) or (b) to be conducted by its financial institutions in competition with a public entity or a financial institution.

ARTICLE 11.2: NATIONAL TREATMENT

1. Each Party shall accord to financial institutions of the other Party treatment no less favorable than that it accords to its own financial institutions, in like circumstances, with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of financial institutions.
2. For purposes of the national treatment obligations in Article 11.5.1, a Party shall accord to cross-border financial service suppliers of the other Party treatment no less favorable than that it accords to its own financial service suppliers, in like circumstances, with respect to the supply of the relevant service.

ARTICLE 11.3: MOST-FAVORED-NATION TREATMENT

1. Each Party shall accord to financial institutions of the other Party and cross-border financial service suppliers of the other Party treatment no less favorable than that it accords to the financial institutions and cross-border financial service suppliers of a non-Party, in like circumstances.
2. A Party may recognize prudential measures of a non-Party in the application of measures covered by this Chapter. Such recognition may be:

- (a) accorded unilaterally;
- (b) achieved through harmonization or other means; or
- (c) based upon an agreement or arrangement with the non-Party.

3. A Party according recognition of prudential measures under paragraph 2 shall provide adequate opportunity to the other Party to demonstrate that circumstances exist in which there are or would be equivalent regulation, oversight, implementation of regulation, and, if appropriate, procedures concerning the sharing of information between the Parties.

4. Where a Party accords recognition of prudential measures under paragraph 2(c) and the circumstances set out in paragraph 3 exist, the Party shall provide adequate opportunity to the other Party to negotiate accession to the agreement or arrangement, or to negotiate a comparable agreement or arrangement.

ARTICLE 11.4: MARKET ACCESS FOR FINANCIAL INSTITUTIONS

Neither Party may adopt or maintain, with respect to financial institutions of the other Party or investors of the other Party seeking to establish such institutions, either on the basis of a regional subdivision or on the basis of its entire territory, measures that:

- (a) impose limitations on
 - (i) the number of financial institutions whether in the form of numerical quotas, monopolies, exclusive service suppliers, or the requirement of an economic needs test;
 - (ii) the total value of financial service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
 - (iii) the total number of financial service operations or on the total quantity of financial services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;¹ or
 - (iv) the total number of natural persons that may be employed in a particular financial service sector or that a financial institution may employ and who are necessary for, and directly related to, the supply of a specific financial service in the form of a numerical quota or the requirement of an economic needs test; or
- (b) restrict or require specific types of legal entity or joint venture through which a financial institution may supply a service.

ARTICLE 11.5: CROSS-BORDER TRADE

1. Each Party shall permit, under terms and conditions that accord national treatment, cross-border financial service suppliers of the other Party to supply the services specified in Annex 11-A.

¹ This clause does not cover measures of a Party that limit inputs for the supply of financial services.

2. Each Party shall permit persons located in its territory, and its nationals wherever located, to purchase financial services from cross-border financial service suppliers of the other Party located in the territory of the other Party. This obligation does not require a Party to permit such suppliers to do business or solicit in its territory. Each Party may define “doing business” and “solicitation” for purposes of this obligation, provided that those definitions are not inconsistent with paragraph 1.

3. Without prejudice to other means of prudential regulation of cross-border trade in financial services, a Party may require the registration of cross-border financial service suppliers of the other Party and of financial instruments.

ARTICLE 11.6: NEW FINANCIAL SERVICES²

1. Each Party shall permit a financial institution of the other Party, on request or notification to the relevant regulator, where required, to supply any new financial service that the first Party would permit its own financial institutions, in like circumstances, to supply under its domestic law, provided that the introduction of the new financial service does not require the Party to adopt a new law or modify an existing law.

2. A Party may determine the institutional and juridical form through which the new financial service may be supplied and may require authorization for the supply of the service. Where a Party would permit the new financial service and authorization is required, the decision shall be made within a reasonable time and authorization may only be refused for prudential reasons.

ARTICLE 11.7: TREATMENT OF CERTAIN INFORMATION

Article 20.4 (Disclosure of Information) does not apply to this Chapter. Nothing in this Chapter shall be construed to require a Party to furnish or allow access to:

- (a) information related to the financial affairs and accounts of individual customers of financial institutions or cross-border financial service suppliers; or
- (b) any confidential information, the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or prejudice legitimate commercial interests of particular enterprises.

ARTICLE 11.8: SENIOR MANAGEMENT AND BOARDS OF DIRECTORS

1. Neither Party may require financial institutions of the other Party to engage individuals of any particular nationality as senior managerial or other essential personnel.

2. Neither Party may require that more than a minority of the board of directors of a financial institution of the other Party be composed of nationals of the Party, persons residing in the territory of the Party, or a combination thereof.

² The Parties understand that nothing in Article 11.6 prevents a financial institution of a Party from applying to the other Party to consider authorizing the supply of a financial service that is supplied in neither Party’s territory. Such application shall be subject to the law of the Party to which the application is made and, for greater certainty, shall not be subject to the obligations of Article 11.6.

ARTICLE 11.9: NON-CONFORMING MEASURES

1. Articles 11.2 through 11.5 and 11.8 do not apply to:
 - (a) any existing non-conforming measure that is maintained by a Party at
 - (i) the central level of government, as set out by that Party in its Schedule to Annex III;
 - (ii) a regional level of government, as set out by that Party in its Schedule to Annex III; or
 - (iii) a local level of government;
 - (b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or
 - (c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 11.2, 11.3, 11.4, or 11.8.³
2. Annex 11-B sets out certain specific commitments by each Party.
3. A non-conforming measure set out in a Party's Schedule to Annex I or II as a measure to which Article 10.2 (National Treatment), 10.3 (Most-Favored-Nation Treatment), or 10.4 (Market Access) does not apply shall be treated as a non-conforming measure to which Article 11.2, 11.3, or 11.4, as the case may be, does not apply, to the extent that the measure, sector, sub-sector, or activity set out in the Schedule of non-conforming measures is covered by this Chapter.

ARTICLE 11.10: EXCEPTIONS

1. Notwithstanding any other provision of this Chapter or Chapters Twelve (Telecommunications) or Thirteen (Electronic Commerce), including specifically Article 12.16 (Relationship to Other Chapters), and in addition Article 10.1.3 (Scope and Coverage) with respect to the supply of financial services in the territory of a Party, neither Party shall be prevented from adopting or maintaining measures for prudential reasons,⁴ including for the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed by a financial institution or cross-border financial service supplier, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of this Agreement referred to in this paragraph, they shall not be used as a means of avoiding the Party's commitments or obligations under such provisions.
2. Nothing in this Chapter or Chapters Twelve (Telecommunications) or Thirteen (Electronic Commerce), including specifically Article 12.16 (Relationship to Other Chapters), and in addition Article 10.1.3 (Scope and Coverage) with respect to the supply of financial services in the territory of a Party, applies to non-discriminatory measures of general application taken by any public entity in pursuit of monetary and related credit policies or exchange rate policies. This paragraph shall not affect a Party's obligations under Article 10.10 (Transfers and Payments).

³ For greater certainty, Article 11.5 does not apply to an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed on the date of entry into force of the Agreement, with Article 11.5.

⁴ It is understood that the term "prudential reasons" includes the maintenance of the safety, soundness, integrity, or financial responsibility of individual financial institutions or cross-border financial service suppliers.

3. Notwithstanding Article 10.10 (Transfers and Payments), as incorporated into this Chapter, a Party may prevent or limit transfers by a financial institution or cross-border financial service supplier to, or for the benefit of, an affiliate of or person related to such institution or supplier, through the equitable, non-discriminatory, and good faith application of measures relating to maintenance of the safety, soundness, integrity, or financial responsibility of financial institutions or cross-border financial service suppliers. This paragraph does not prejudice any other provision of this Agreement that permits a Party to restrict transfers.

4. For greater certainty, nothing in this Chapter shall be construed to prevent the adoption or enforcement by a Party of measures necessary to secure compliance with laws or regulations that are not inconsistent with this Chapter, including those relating to the prevention of deceptive and fraudulent practices or to deal with the effects of a default on financial services contracts, subject to the requirement that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on financial institutions of the other Party or cross-border trade in financial services, as covered by this Chapter.

ARTICLE 11.11: TRANSPARENCY

1. The Parties recognize that transparent regulations and policies governing the activities of financial institutions and cross-border financial service suppliers are important in facilitating both access of foreign financial institutions and foreign cross-border financial service suppliers to, and their operations in, each other's market. Each Party commits to promote regulatory transparency in financial services.

2. In lieu of Article 17.1 (Publication), each Party shall, to the extent practicable,

- (a) publish in advance any regulations of general application relating to the subject matter of this Chapter that it proposes to adopt; and
- (b) provide interested persons and the other Party a reasonable opportunity to comment on such proposed regulations.

3. At the time it adopts final regulations of general application relating to the subject matter of this Chapter, each Party should, to the extent practicable, address in writing substantive comments received from interested persons with respect to the proposed regulations.

4. To the extent practicable, each Party should allow reasonable time between publication of such final regulations and their effective date.

5. Each Party shall ensure that the rules of general application adopted or maintained by self-regulatory organizations of the Party are promptly published or otherwise made available in such a manner as to enable interested persons to become acquainted with them.

6. Each Party shall maintain or establish appropriate mechanisms for responding to inquiries from interested persons regarding measures of general application relating to the subject matter of this Chapter.

7. Each Party's regulatory authorities shall make available to interested persons their requirements, including any documentation required, for completing applications relating to the supply of financial services.

8. On the request of an applicant, a Party's regulatory authority shall inform the applicant of the status of its application. If the authority requires additional information from the applicant, it shall notify the applicant without undue delay.

9. A Party's regulatory authority shall make an administrative decision on a completed application of a financial institution or a cross-border financial service supplier of the other Party relating to the supply of a financial service within 120 days, and shall promptly notify the applicant of the decision. An application shall not be considered complete until all relevant hearings are held and all necessary information is received. Where it is not practicable for a decision to be made within 120 days, the regulatory authority shall notify the applicant without undue delay and shall endeavor to make the decision within a reasonable time thereafter.

ARTICLE 11.12: SELF-REGULATORY ORGANIZATIONS

Where a Party requires a financial institution or a cross-border financial service supplier of the other Party to be a member of, participate in, or have access to a self-regulatory organization to provide a financial service in or into its territory, the Party shall ensure observance of the obligations of Articles 11.2 and 11.3 by such self-regulatory organization.

ARTICLE 11.13: PAYMENT AND CLEARING SYSTEMS

Under terms and conditions that accord national treatment, each Party shall grant financial institutions of the other Party access to payment and clearing systems operated by public entities, and to official funding and refinancing facilities available in the normal course of ordinary business. This paragraph is not intended to confer access to the Party's lender of last resort facilities.

ARTICLE 11.14: DOMESTIC REGULATION

Each Party shall ensure that all measures of general application to which this Chapter applies are administered in a reasonable, objective, and impartial manner.

ARTICLE 11.15: EXPEDITED AVAILABILITY OF INSURANCE SERVICES

The Parties recognize the importance of maintaining and developing regulatory procedures to expedite the offering of insurance services by licensed suppliers.

ARTICLE 11.16: DENIAL OF BENEFITS

1. A Party may deny the benefits of this Chapter to an investor of the other Party that is an enterprise of such other Party and to a financial institution of the other Party that is a BIT investment of that investor if persons of a non-Party own or control the enterprise and the denying Party:

- (a) does not maintain diplomatic relations with the non-Party; or
- (b) adopts or maintains measures with respect to the non-Party or a person of the non-Party that prohibit transactions with the enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise or the financial institution.

2. A Party may deny the benefits of this Chapter to an investor of the other Party that is an enterprise of such other Party and to a financial institution of the other Party that is a BIT investment of that investor if the enterprise has no substantial business activities in the territory of the other Party and persons of a non-Party, or of the denying Party, own or control the enterprise.

ARTICLE 11.17: INFORMATION REQUIREMENTS

Notwithstanding Articles 11.2 and 11.3, a Party may require a financial institution of the other Party to provide information concerning the financial institution solely for informational or statistical purposes. The Party shall protect any business information that is confidential from any disclosure that would prejudice the competitive position of the financial institution. Nothing in this paragraph shall be construed to prevent a Party from otherwise obtaining or disclosing information in connection with the equitable and good faith application of its law.

ARTICLE 11.18: FINANCIAL SERVICES SUBCOMMITTEE

1. The Parties hereby establish a Financial Services Subcommittee. The principal representative of each Party shall be an official of the Party's authority responsible for financial services set out in Annex 11-D.
2. The Subcommittee shall:
 - (a) supervise the implementation of this Chapter and its further elaboration; and
 - (b) consider issues regarding financial services that are referred to it by a Party.
3. The Subcommittee shall meet annually, or as otherwise agreed, to assess the functioning of this Agreement as it applies to financial services. The Subcommittee shall inform the Joint Committee established under Chapter Eighteen (Administration) of the results of each meeting.

ARTICLE 11.19: CONSULTATIONS

1. A Party may request consultations with the other Party regarding any matter arising under this Agreement that affects financial services. The other Party shall give sympathetic consideration to the request. The Parties shall report the results of their consultations to the Financial Services Subcommittee.
2. Consultations under this Article shall include officials of the authorities specified in Annex 11-D.

ARTICLE 11.20: DISPUTE SETTLEMENT

1. Chapter Nineteen (Dispute Settlement) applies as modified by this Article to the settlement of disputes arising under this Chapter.
2. When a Party claims that a dispute arises under this Chapter, Article 19.7 (Establishment of Panel) shall apply, except that:
 - (a) where the Parties so agree, the panel shall be composed entirely of panelists meeting the qualifications in paragraph 3;
 - (b) in any other case,
 - (i) each Party may select panelists meeting the qualifications set out in paragraph 3 or Article 19.7.4 (Establishment of Panel), and
 - (ii) if the Party complained against invokes Article 11.10, the chair of the panel shall meet the qualifications set out in paragraph 3, unless the Parties agree otherwise.

3. Financial services panelists shall:
 - (a) have expertise or experience in financial services law or practice, which may include the regulation of financial institutions;
 - (b) be chosen strictly on the basis of objectivity, reliability, and sound judgment; and
 - (c) meet the qualifications set out in Article 19.7.4(b) and (c) (Establishment of Panel).
4. Notwithstanding Article 19.11 (Non-Implementation), where a panel finds a measure to be inconsistent with this Agreement and the measure under dispute affects:
 - (a) only a sector other than the financial services sector, the complaining Party may not suspend benefits in the financial services sector; or
 - (b) the financial services sector and any other sector, the complaining Party may suspend benefits in the financial services sector that have an effect equivalent to the effect of the measure in the Party's financial services sector.

ARTICLE 11.21: DEFINITIONS

For purposes of this Chapter:

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

cross-border trade in financial services or cross-border supply of financial services means the supply of a financial service:

- (a) from the territory of one Party into the territory of the other Party,
- (b) in the territory of one Party by a person of that Party to a person of the other Party, or
- (c) by a national of one Party in the territory of the other Party,

but does not include the supply of a financial service in the territory of a Party by an investor of the other Party, or a BIT investment, in a financial institution of the other Party;

financial institution means any financial intermediary or other enterprise that is authorized to do business and regulated or supervised as a financial institution under the law of the Party in whose territory it is located;

financial institution of the other Party means a financial institution, including a branch, located in the territory of a Party that is controlled by persons of the other Party;

financial service means any service of a financial nature. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance), as well as services incidental or auxiliary to a service of a financial nature. Financial services include the following activities:

Insurance and insurance-related services

- (a) Direct insurance (including co-insurance):
 - (i) life,
 - (ii) non-life;
- (b) Reinsurance and retrocession;
- (c) Insurance intermediation, such as brokerage and agency;
- (d) Services auxiliary to insurance, such as consultancy, actuarial, risk assessment, and claim settlement services.

Banking and other financial services (excluding insurance)

- (e) Acceptance of deposits and other repayable funds from the public;
- (f) Lending of all types, including consumer credit, mortgage credit, factoring, and financing of commercial transactions;
- (g) Financial leasing;
- (h) All payment and money transmission services, including credit, charge and debit cards, travelers checks, and bankers drafts;
- (i) Guarantees and commitments;
- (j) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:
 - (i) money market instruments (including checks, bills, certificates of deposits);
 - (ii) foreign exchange;
 - (iii) derivative products including, but not limited to, futures and options;
 - (iv) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;
 - (v) transferable securities;
 - (vi) other negotiable instruments and financial assets, including bullion;
- (k) Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;
- (l) Money broking;
- (m) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository, and trust services;
- (n) Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;

- (o) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;
- (p) Advisory, intermediation, and other auxiliary financial services on all the activities listed in subparagraphs (e) through (o), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;

financial service supplier of a Party means a person of a Party that is engaged in the business of supplying a financial service within the territory of that Party;

investor of a Party means a Party or state enterprise thereof, or a national or an enterprise of a Party, that seeks to make, is making, or has made a BIT investment in a financial institution in the territory of the other Party;

new financial service means a financial service not supplied in the Party's territory that is supplied within the territory of the other Party, and includes any new form of delivery of a financial service or the sale of a financial product that is not sold in the Party's territory;

person of a Party means "person of a Party" as defined in Article 1.3 (Definitions) and, for greater certainty, does not include a branch of an enterprise of a non-Party;

public entity means a central bank or monetary authority of a Party, or any financial institution owned or controlled by a Party; and

self-regulatory organization means any non-governmental body, including any securities or futures exchange or market, clearing agency, or other organization or association, that exercises its own or delegated regulatory or supervisory authority over financial service suppliers or financial institutions.

ANNEX 11-A
CROSS-BORDER TRADE

Insurance and insurance-related services

United States

1. For the United States, Article 11.5.1 applies to the cross-border supply of or trade in financial services as defined in subparagraph (a) of the definition of cross-border supply of financial services in Article 11.21 with respect to:

- (a) insurance of risks relating to:
 - (i) maritime shipping and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability arising therefrom; and
 - (ii) goods in international transit;
- (b) reinsurance and retrocession, services auxiliary to insurance as referred to in subparagraph (d) of the definition of financial service, and insurance intermediation such as brokerage and agency as referred to in subparagraph (c) of the definition of financial service.

2. For the United States, Article 11.5.1 applies to the cross-border supply of or trade in financial services as defined in subparagraph (c) of the definition of cross-border supply of financial services in Article 11.21 with respect to insurance services.

Bahrain

1. For Bahrain, Article 11.5.1 applies to the cross-border supply of or trade in financial services as defined in subparagraph (a) of the definition of cross-border supply of financial services in Article 11.21 with respect to:

- (a) insurance of risks relating to:
 - (i) maritime shipping and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability arising therefrom; and
 - (ii) goods in international transit;
- (b) reinsurance and retrocession;
- (c) services auxiliary to insurance as referred to in subparagraph (d) of the definition of financial service in Article 11.21; and
- (d) insurance intermediation, such as brokerage and agency as referred to in subparagraph (c) of the definition of financial service, with respect to the types of insurance risks covered in subparagraph (a) and (b).

2. For Bahrain, Article 11.5.1 applies to the cross-border supply of or trade in financial services as defined in subparagraph (c) of the definition of cross-border supply of financial services in Article 11.21 with respect to insurance services.

3. Bahrain's commitments pursuant to subparagraph 1(a)(i), and brokerage of such risks, shall apply one year after the entry into force of this Agreement, or when Bahrain has implemented the necessary amendments in its relevant legislation, whichever occurs earlier.

Banking and other financial services (excluding insurance)

Each Party shall undertake the obligations of Article 11.5.1 with respect to the provision and transfer of financial information and financial data processing and related software as referred to in subparagraph (o) of the definition of financial service in Article 11.21, and advisory and other auxiliary services, excluding intermediation, as referred to in subparagraph (p) of the definition of financial service.

ANNEX 11-B
SPECIFIC COMMITMENTS

Expedited Availability of Insurance

The Parties understand that Bahrain requires prior product approval before the introduction of new insurance products. The Bahrain Monetary Agency (BMA) shall provide that once an enterprise seeking approval for insurance products files all the required information with the BMA, the BMA shall grant approval or issue disapproval according to its regulations for the sale of the new product within 60 days. The Parties understand that the BMA does not maintain any limitations on the number or frequency of new product introductions.

Portfolio Management

1. A Party shall allow a financial institution (other than a trust company), organized outside its territory, to provide investment advice and portfolio management services, excluding (1) custodial services, (2) trustee services, and (3) execution services that are not related to managing a collective investment scheme, to a collective investment scheme located in the Party's territory. This commitment is subject to Article 11.1 and to the provisions of Article 11.5.3.
2. For purposes of paragraph 1, **collective investment scheme** means:
 - (a) for Bahrain, a "scheme" as defined in Circular No. OG/356/92 dated November 18, 1992, regarding the Regulation with Respect to the General Supervision, Operation, and Marketing of Collective Investment Schemes; and
 - (b) for the United States, an investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940.

New Financial Services

In addition to Bahrain's commitment to allow a new financial service to be supplied consistent with Article 11.6, Bahrain undertakes to consult with the United States, on request, in circumstances where an application by a financial institution of the United States to supply a new service has been denied.

Insurance

1. In the context of Bahrain's review of the regulatory framework for the insurance sector, Bahrain shall ensure that any laws, regulations, and rules that are developed as a result of the review will treat enterprises of the United States on a non-discriminatory basis, subject only to any relevant non-conforming measures listed in Bahrain's Schedule to Annex III.
2. Bahrain shall ensure that insurance suppliers established in the territory of Bahrain prior to the date of signature of this Agreement are allowed to maintain the scope of their business activities in existence on that date, as well as any increase in the scope of such business activities authorized prior to the date of entry into force of this Agreement. For greater certainty, this paragraph shall not be construed to prevent Bahrain from applying future non-discriminatory prudential measures to such suppliers.

ANNEX 11-C
SELF-REGULATORY ORGANIZATIONS

The Parties recognize that certain requirements of the Bahrain Stock Exchange are not consistent with the obligations of Articles 11.2 and 11.3. Bahrain shall ensure that, no later than 24 months from the date of entry into force of this Agreement, self-regulatory organizations in Bahrain will modify their regulations, including those dealing with requirements for broker/dealers, in order to bring them into compliance with these obligations. Until that time, Bahrain confirms that U.S. financial institutions established in Bahrain will be granted membership in and allowed to operate on the Bahrain Stock Exchange, provided that they meet applicable requirements maintained by the Exchange.

ANNEX 11-D
AUTHORITIES RESPONSIBLE FOR FINANCIAL SERVICES

The authority of each Party responsible for financial services is:

- (a) for Bahrain, the Bahrain Monetary Agency; and
- (b) for the United States, the Department of the Treasury for banking and other financial services and the Office of the United States Trade Representative, in coordination with the Department of Commerce and other agencies, for insurance services.

ANNEX 11-E
RELATING TO THE DEFINITION OF “FINANCIAL SERVICE”

The Parties recognize that the term “financial service” is broadly defined for purposes of this Chapter, and that numerous financial services are capable of being offered or supplied in various forms. The United States notes that the term “financial service” is comprehensive enough to include *Shariah*-compliant financial services and, in accordance with its commitments and obligations under this Chapter, will consider proposals by financial institutions of Bahrain to offer such services in the United States to the extent consistent with U.S. law, including any regulatory or supervisory requirements.

Washington, D.C.
September 14, 2004

H.E. Abdulla Hassan Saif
Minister of Finance and National Economy
Kingdom of Bahrain

Dear Minister Saif:

I have the honor to confirm the following understandings reached between the delegations of the United States of America and the Kingdom of Bahrain regarding cross-border trade in insurance as provided under Annex 11-A (Cross-Border Trade) of the Free Trade Agreement between our Governments signed this day:

- (1) A Party may require the registration or authorization of the relevant financial institutions and/or intermediaries for prudential purposes, such as the requirement to be licensed and in good standing in the territory of the other Party. The Parties understand that such registration requirements shall not include the requirement to maintain a local presence.
- (2) Paragraph 4 of Article 11.10 (Exceptions) of the Agreement recognizes that a Party may require the relevant financial institutions and/or intermediaries to comply with laws or regulations, including rules and regulations prescribed by the relevant regulator.
- (3) Non-Bahraini insurance companies supplying cross-border insurance services provided for in paragraph 1(a) of Bahrain's section of Annex 11-A (Cross-Border Trade) may be required to have a classification by an internationally recognized classified institution such as Moody's, AM Best, or Standard & Poors. For greater certainty, this understanding shall not apply to the existing business activities of enterprises already present in the territory of Bahrain.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an integral part of the Agreement.

Sincerely,

Robert B. Zoellick

September 14, 2004

Washington, D.C.

The Honorable Robert B. Zoellick
United States Trade Representative

Dear Ambassador Zoellick:

I am pleased to receive your letter of today's date, which reads as follows:

"I have the honor to confirm the following understandings reached between the delegations of the United States of America and the Kingdom of Bahrain regarding cross-border trade in insurance as provided under Annex 11-A (Cross-Border Trade) of the Free Trade Agreement between our Governments signed this day:

- (1) A Party may require the registration or authorization of the relevant financial institutions and/or intermediaries for prudential purposes, such as the requirement to be licensed and in good standing in the territory of the other Party. The Parties understand that such registration requirements shall not include the requirement to maintain a local presence.
- (2) Article 11.10.4 of the Agreement recognizes that a Party may require the relevant financial institutions and/or intermediaries to comply with laws or regulations, including rules and regulations prescribed by the relevant regulator.
- (3) Non-Bahraini insurance companies supplying cross-border insurance services provided for in paragraph 1(a) of Bahrain's section of Annex 11-A may be required to have a classification by an internationally recognized classified institution such as Moody's, AM Best, or Standard & Poors. For greater certainty, this understanding shall not apply to the existing business activities of enterprises already present in the territory of Bahrain.

I would be grateful if you would confirm that these understandings are shared by your Government.”

I have the honor to confirm that the understandings referred to in your letter are shared by my Government.

Sincerely,

Abdulla Hassan Saif

Washington, D.C.
September 14, 2004

H.E. Abdulla Hassan Saif
Minister of Finance and National Economy
Kingdom of Bahrain

Dear Minister Saif:

I have the honor to confirm the following understanding reached between the delegations of the United States of America and the Kingdom of Bahrain regarding Chapter Eleven (Financial Services) of the Free Trade Agreement between our Governments signed this day:

In the context of Bahrain's review of the regulatory framework for the insurance sector, Bahrain shall ensure that any laws, regulations, and rules that are developed as a result of the review will permit U.S. insurance suppliers to sell their insurance products through independent agents.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an integral part of the Agreement.

Sincerely,

Robert B. Zoellick

September 14, 2004

Washington, D.C.

The Honorable Robert B. Zoellick
United States Trade Representative

Dear Ambassador Zoellick:

I am pleased to receive your letter of today's date, which reads as follows:

"I have the honor to confirm the following understanding reached between the delegations of the United States of America and the Kingdom of Bahrain regarding Chapter Eleven (Financial Services) of the Free Trade Agreement between our Governments signed this day:

In the context of Bahrain's review of the regulatory framework for the insurance sector, Bahrain shall ensure that any laws, regulations, and rules that are developed as a result of the review will permit U.S. insurance suppliers to sell their insurance products through independent agents.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an integral part of the Agreement."

I have the honor to confirm that the understanding referred to in your letter is shared by my Government, and that your letter and this letter in reply shall constitute an integral part of the Agreement.

Sincerely,

Abdulla Hassan Saif

September 14, 2004

Washington, D.C.

The Honorable Robert B. Zoellick
United States Trade Representative

Dear Ambassador Zoellick:

I have the honor to confirm the following understanding reached between the delegations of the Kingdom of Bahrain and the United States of America regarding Chapter Eleven (Financial Services) of the Free Trade Agreement between our Governments signed this day:

The six-month period provided for in Bahrain's non-conforming measure on non-life insurance market access may be extended by the mutual agreement of the Parties.

I would be grateful if you would confirm that this understanding is shared by your Government.

Sincerely,

Abdulla Hassan Saif

Washington, D.C.
September 14, 2004

H.E. Abdulla Hassan Saif
Minister of Finance and National Economy
Kingdom of Bahrain

Dear Minister Saif:

I am pleased to receive your letter of today's date, which reads as follows:

"I have the honor to confirm the following understanding reached between the delegations of the Kingdom of Bahrain and the United States of America regarding Chapter Eleven (Financial Services) of the Free Trade Agreement between our Governments signed this day:

The six-month period provided for in Bahrain's non-conforming measure on non-life insurance market access may be extended by the mutual agreement of the Parties.

I would be grateful if you would confirm that this understanding is shared by your Government."

I have the honor to confirm that the understanding referred to in your letter is shared by my Government.

Sincerely,

Robert B. Zoellick