

ANNEX III
SCHEDULE OF KOREA WITH RESPECT TO FINANCIAL SERVICES

Introductory Note for the Schedule of Korea

1. The Schedule of Korea to 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, pursuant to Article 13.9 (Non-Conforming Measures), the existing measures of Korea that do not conform with some or all of the obligations imposed by:
 - (i) Article 13.2 (National Treatment);
 - (ii) Article 13.3 (Most-Favored-Nation Treatment);
 - (iii) Article 13.4 (Market Access for Financial Institutions);
 - (iv) Article 13.5 (Cross-Border Trade); or
 - (v) Article 13.8 (Senior Management and Boards of Directors), and
 - (c) in Section B, pursuant to Article 13.9 (Non-conforming Measures), the specific sectors, subsectors, or activities for which Korea may maintain existing, or adopt new or more restrictive, measures that do not conform with the obligations imposed by Article 13.2, 13.3, 13.4, 13.5, or 13.8.
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) **Subsector** 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 13.9.1(a), do not apply to the non-conforming aspects of the law, regulation, or other measure, as set out in paragraph 4;
 - (d) **Level of Government** indicates the level of government maintaining the scheduled measure(s);
 - (e) **Measures** 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) **Subsector** 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 13.9.2, do not apply to the sectors, subsectors, or activities scheduled in the entry;
 - (d) **Level of Government** indicates the level of government maintaining the listed measure(s); and
 - (e) **Description** sets out the scope of the sectors, subsectors, or activities covered by the entry.
4. For entries in Section A, in accordance with Article 13.9.1(a), and subject to Article 13.9.1(c), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming aspects of the law, regulation, or other measure identified in the **Measures** element of that entry, except to the extent that such non-conforming aspects are inconsistent with a Specific Commitment in Annex 13-B.
5. For entries in Section B, in accordance with Article 13.9.2, the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the sectors, subsectors, and activities identified in the **Description** element of that entry.
6. Where Korea 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 13.2, 13.3, 13.4, or 13.5 shall operate as a Schedule entry with respect to Article 11.3 (National Treatment), 11.4 (Most-Favored-Nation Treatment), or 11.8 (Performance Requirements) to the extent of that measure.
7. Appendix III-A lists certain measures that the Parties consider to be not inconsistent with Article 13.2 or 13.4 or subject to Article 13.10.1.
8. An entry in Annex I or Annex II specifying that Article 12.2 (National Treatment) does 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 13.5.1 to accord national treatment with respect to the supply of services specified in Annex 13-A to cross-border financial service suppliers of the other Party.

APPENDIX III-A

CERTAIN MEASURES NOT INCONSISTENT WITH ARTICLE 13.4 OR SUBJECT TO 13.10.1

The following measures are not inconsistent with Article 13.4 (Market Access for Financial Institutions):

- (1) An insurance company constituted in Korea may engage only in activities permitted by the relevant laws. (Article 10 and 11 of the *Insurance Business Act* (Law No. 7971, August 29, 2006) and Article 15 and 16 of the *Enforcement Decree of the Insurance Business Act* (Presidential Decree No. 19493, May 30, 2006));
- (2) 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 Supervisory Committee Notification No. 2006-84, November 30, 2006));
- (3) 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 7-7 to 7-10 of the *Foreign Exchange Transaction Regulation* (Notification of the Ministry of Finance and Economy No. 2006-26, August 3, 2006));
- (4) 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));
- (5) 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; the overbought (long won) position of NDFs (Non-Deliverable Forwards) held by onshore banks may not exceed 110 percent of the position as registered on January 14, 2004. (Article 11-2 of the *Foreign Exchange Transaction Act* (Law No. 8050, October 4, 2006); and Article 2-9 of the *Foreign Exchange Transaction Regulation* (Notification of the Ministry of Finance and Economy No. 2006-26, August 3, 2006));
- (6) Securities savings and securities credit extensions are subject to restrictions on the maximum credit amount and use of proceeds. Securities savings is the sale by a securities company of marketable securities that the company keeps in its custody in exchange for cash deposits received from its customers. Securities companies are only permitted to extend credit for purpose related to the sale and purchase of

securities. (Articles 49 and 50 of the *Securities and Exchange Act* (Law No. 7762, December 29, 2005); Articles 35-15 and 35-16 of the *Enforcement Decree of the Securities and Exchange Act* (Presidential Decree No. 19806, December 29, 2006));

- (7) 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));
- (8) A bank, securities company 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 Article 51 of the *Securities and Exchange Act* (Law No. 7762, December 29, 2005) and Articles 36-2 and 36-3 of the *Enforcement Decree of Securities and Exchange Act* (Presidential Decree No. 19806, December 29, 2006));
- (9) 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. 7971, August 29, 2006);
- (10) Non-resident of Korea may convert foreign currency into KRW (Korean won) only for actual use in Korea. (Articles 7-7 to 7-10 and Articles 7-36 to 7-39 of the *Foreign Exchange Transaction Regulations* (Notification of the Ministry of Finance and Economy No. 2006-26, August 3, 2006));
- (11) 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); Article 8 and Article 15 of the *Lending Business Act* (Law No. 7523, May 31, 2005); and Article 5 and Article 9 of the *Enforcement Decree of Lending Business Act* (Presidential Decree No. 19019, August 31, 2005)).

The following measures fall within Article 13.10.1 (Exceptions) and that, therefore, Article 13.2 (National Treatment) does not prevent Korea from maintaining them:

- (1) 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. 7971, August 29, 2006));
- (2) 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. 7971, August 29, 2006)).

Headnotes

1. Commitments in these subsectors 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 13.4 (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 13.2 (National Treatment) and 13.4 (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 Article 13.9.1(c) (Non-Conforming Measures) with respect to Article 13.4 (Market Access for Financial Institutions) in the following manner: Article 13.9.1(c) shall apply only to non-conforming measures relating to 13.4(a) and not to those non-conforming measures relating to Article 13.4(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

Sector:	Financial Services
Sub-Sector:	Insurance
Obligations Concerned:	Market Access for Financial Institutions (Article 13.4)
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 securities company 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.

Sector:	Financial Services
Sub-Sector:	Insurance
Obligations Concerned:	Cross-Border Trades (Article 13.5)
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)

Road Traffic Act (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 13-A, 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.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 13.2)
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 Financial Supervisory Commission 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 may 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, may not own more than 4 percent of the shares of a commercial bank or bank holding company constituted under the laws of Korea. The ownership percentage can be increased to 10 percent if

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.

the corporate entity waives its ability to exercise voting rights relating to the shares in excess of 4 percent.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 13.2)
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> (Financial Supervisory Committee 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.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Market Access for Financial Institutions (Article 13.4)
Level of Government:	Central
Measures:	Articles 4, 7, and 15 of the <i>Korea Securities and Futures Exchange Act</i> (Law No. 7428, March 31, 2005)
Description:	Only the Korea Exchange may operate a securities or futures market in Korea.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Market Access for Financial Institutions (Article 13.4)
Level of Government:	Central
Measures:	Articles 173 to 178 and 194 of the <i>Securities and Exchange Act</i> (Law No. 7762, December 29, 2005)
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 securities companies in Korea.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Market Access for Financial Institutions (Article 13.4)
Level of Government:	Central
Measures:	Articles 173-3 and 194 of the <i>Securities and Exchange Act</i> (Law No. 7762, December 29, 2005) Article 84-27 of the <i>Enforcement Decree of the Securities and Exchange Act</i> (Presidential Decree No. 19806, December 29, 2006)
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.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Cross Border Trade (Article 13.5)
Level of Government:	Central
Measures:	Article 51 of the <i>Futures Trading Act</i> (Law No. 7617, July 29, 2005)
Description:	A resident of Korea, including a natural person who is resident in Korea, a financial institution constituted under the laws of Korea and a branch of foreign financial institution, may enter into offshore futures, options, and certain forward contracts only through a futures company licensed in Korea.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 13.2)
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 28-2 of the <i>Securities and Exchange Act</i> (Law No. 7762, December 29, 2005) Article 15-4 of the <i>Enforcement Decree of the Securities and Exchange Act</i> (Presidential Decree No. 19806, December 29, 2006)
Description:	A branch in Korea of a bank or a securities company 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>Securities and Exchange Act</i>, such a branch is considered a separate legal entity from the bank or the securities company constituted under the laws of another country.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Market Access for Financial Institutions (Article 13.4)
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 3 of the <i>Merchant Bank Act</i> (Law No. 7428, March 31, 2005) Article 8 of the <i>Enforcement Decree of the Merchant Bank Act</i> (Presidential Decree No. 19422, March 29, 2006) 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 25, 154, and 155 of the <i>Indirect Investment Asset Management Business Act</i> (Law No. 7618, July 29, 2005)
Description:	The following types of business may not be conducted by a branch of a financial institution constituted under the laws of another country: 1. credit unions; 2. mutual savings banks; 3. specialized capital finance companies; 4. merchant banks; 5. foreign and won currency capital brokerage firms; 6. credit information companies; 7. general fund administration firms; 8. indirect investment vehicle appraisal companies; and 9. bond appraisal companies.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Market Access for Financial Institutions (Article 13.4)
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.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 13.2)
Level of Government:	Central
Measures:	The <i>Korea Development Bank Act</i> (Law No. 7620, July 29, 2005) The <i>Industrial Bank of Korea Act</i> (Law No. 7717, December 14, 2005) 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): - The Korea Development Bank; - Industrial Bank of Korea; - Korea Housing Finance Corporation; - the National Agricultural Cooperative Federation; and - the National Federation of Fisheries Cooperatives (b) special treatment, including but not limited to the following: - Guarantees of loans to or bonds issued by the GSIs; - Permission to issue more bonds per capital than similarly-situated non-GSIs; - Reimbursement of losses incurred by GSIs; - Exemption from certain taxes on capital, surplus, profit, or assets.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Senior Management and Boards of Directors (Article 13.8)
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.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 13.2)
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 Ministry of Construction and Transportation 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.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Market Access for Financial Institutions (Article 13.4)
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

Sector:	Financial Services
Sub-Sector:	Insurance
Obligations Concerned:	Cross-Border Trades (Article 13.5)
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 13-A. 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.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 13.2)
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.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 13.2)
Level of Government:	Central
Measures:	<i>Korea Securities and Futures Exchange Act</i> (Law No. 7428, March 31, 2005) <i>Securities and Exchange Act</i> (Law No. 7762, December 29, 2005)
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 the United States.

ANNEX III
SCHEDULE OF THE UNITED STATES WITH RESPECT TO FINANCIAL SERVICES

Introductory Note for the Schedule of the United States

1. The Schedule of the United States to this Annex sets out:
 - (a) headnotes that limit or clarify the commitments of the United States with respect to the obligations described in subparagraph (b)(i) through (v) and in subparagraph (c),
 - (b) in Section A, pursuant to Article 13.9 (Non-Conforming Measures), the existing measures of the United States that do not conform with some or all of the obligations imposed by:
 - (i) Article 13.2 (National Treatment);
 - (ii) Article 13.3 (Most-Favored-Nation Treatment);
 - (iii) Article 13.4 (Market Access for Financial Institutions);
 - (iv) Article 13.5 (Cross-Border Trade); or
 - (v) Article 13.8 (Senior Management and Boards of Directors), and
 - (c) in Section B, pursuant to Article 13.9 (Non-Conforming Measures), the specific sectors, subsectors, or activities for which the United States may maintain existing, or adopt new or more restrictive, measures that do not conform with the obligations imposed by Article 13.2, 13.3, 13.4, 13.5, or 13.8.
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) **Subsector** 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 13.9.1(a), do not apply to the non-conforming aspects of the law, regulation, or other measure, as set out in paragraph 4;
 - (d) **Level of Government** indicates the level of government maintaining the scheduled measure(s);
 - (e) **Measures** 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) **Subsector** 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 13.9.2, do not apply to the sectors, subsectors, or activities scheduled in the entry;
 - (d) **Level of Government** indicates the level of government maintaining the listed measure(s); and
 - (e) **Description** sets out the scope of the sectors, subsectors, or activities covered by the entry.
4. For entries in Section A, in accordance with Article 13.9.1(a), and subject to Article 13.9.1(c), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming aspects of the law, regulation, or other measure identified in the **Measures** element of that entry, except to the extent that such non-conforming aspects are inconsistent with a Specific Commitment in Annex 13-B.
5. For entries in Section B, in accordance with Article 13.9.2, the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the sectors, subsectors, and activities identified in the **Description** element of that entry.
6. Where the United States 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 13.2, 13.3, 13.4, or 13.5 shall operate as a Schedule entry with respect to Article 11.3 (National Treatment), 11.4 (Most-Favored-Nation Treatment), or 11.8 (Performance Requirements) to the extent of that measure.
7. An entry in Annex I or Annex II specifying that Article 12.2 (National Treatment) does 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 13.5.1 to accord national treatment with respect to the supply of services specified in Annex 13-A to cross-border financial service suppliers of the other Party.

Headnotes

1. Commitments in these subsectors under the Agreement are undertaken subject to the limitations and conditions set forth in these headnotes and in the Schedule below.
2. National treatment commitments in these subsectors are subject to the following limitations:
 - (a) National treatment with respect to banking will be provided based upon the foreign bank's "home state" in the United States, as that term is defined under the *International Banking Act*, where that Act is applicable. A domestic bank subsidiary of a foreign firm will have its own "home state," and national treatment will be provided based upon the subsidiary's home state, as determined under applicable law.¹
 - (b) National treatment with respect to insurance financial institutions will be provided according to a non-U.S. insurance financial institution's state of domicile, where applicable, in the United States. State of domicile is defined by individual states, and is generally the state in which an insurer either is incorporated, is organized, or maintains its principal office in the United States.
3. To clarify the U.S. commitment with respect to Article 13.4 (Market Access for Financial Institutions), juridical persons supplying banking or other financial services (excluding insurance) and constituted under the laws of the United States are subject to non-discriminatory limitations on juridical form.²
4. The United States limits its commitments under Article 13.9.1(c) (Non-Conforming Measures) with respect to Article 13.4 (Market Access for Financial Institutions) in the following manner: with respect to banking and other financial services (excluding insurance), Article 13.9.1(c) shall apply only to non-conforming measures relating to 13.4(a) and not to those non-conforming measures relating to Article 13.4(b).

¹ Foreign banking organizations are generally subject to geographic and other limitations in the United States on a national treatment basis. Where such limitations do not conform to national treatment, they have been listed as non-conforming measures. For purposes of illustration, under this approach, the following situation does not accord national treatment and would therefore be listed as a non-conforming measure: a foreign bank from a particular home state is accorded less favorable treatment than that accorded to a domestic bank from that state with respect to expansion by branching.

² For example, partnerships and sole proprietorships are generally not acceptable juridical forms for depository financial institutions in the United States. 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

Sector:	Financial Services
Sub-Sector:	Banking and Other Financial Services (Excluding Insurance)
Obligations Concerned:	Senior Management and Boards of Directors (Article 13.8)
Level of Government:	Central
Measures:	12 U.S.C. 72
Description:	All directors of a national bank must be U.S. citizens, except that the Comptroller of the Currency may waive the citizenship requirement for not more than a minority of the total number of directors.

Sector:	Financial Services
Sub-Sector:	Banking and Other Financial Services (Excluding Insurance)
Obligations Concerned:	National Treatment (Article 13.2) Market Access for Financial Institutions (Article 13.4)
Level of Government:	Central
Measures:	12 U.S.C. 619
Description:	Foreign ownership of Edge corporations is limited to foreign banks and U.S. subsidiaries of foreign banks, while domestic non-bank firms may own such corporations.

Sector:	Financial Services
Sub-Sector:	Banking and Other Financial Services (Excluding Insurance)
Obligations Concerned:	National Treatment (Article 13.2) Market Access for Financial Institutions (Article 13.4)
Level of Government:	Central
Measures:	12 U.S.C. 1463 et seq. and 12 U.S.C. 1751 et seq.
Description:	Federal and state laws do not permit a credit union, savings bank, or savings association (both of the latter two entities may be also called thrift institutions) in the United States to be established through branches of corporations organized under a foreign country's law.

Sector:	Financial Services
Sub-Sector:	Banking and Other Financial Services (Excluding Insurance)
Obligations Concerned:	National Treatment (Article 13.2) Market Access for Financial Institutions (Article 13.4)
Level of Government:	Central
Measures:	12 U.S.C. 3104(d)
Description:	In order to accept or maintain domestic retail deposits of less than \$100,000, a foreign bank must establish an insured banking subsidiary. This requirement does not apply to a foreign bank branch that was engaged in insured deposit-taking activities on December 19, 1991.

Sector:	Financial Services
Sub-Sector:	Banking and Other Financial Services (Excluding Insurance)
Obligations Concerned:	National Treatment (Article 13.2)
Level of Government:	Central
Measures:	15 U.S.C. 80b-2, 80b-3
Description:	Foreign banks are required to register as investment advisers under the <i>Investment Advisers Act of 1940</i> to engage in securities advisory and investment management services in the United States, while domestic banks ³ (or a separately identifiable department or division of the bank) do not have to register unless they advise registered investment companies. The registration requirement involves record maintenance, inspections, submission of reports and payment of a fee.

³ For greater clarity, “domestic banks” includes U.S. bank subsidiaries of foreign banks.

Sector:	Financial Services
Sub-Sector:	Banking and Other Financial Services (Excluding Insurance)
Obligations Concerned:	National Treatment (Article 13.2)
Level of Government:	Central
Measures:	12 U.S.C. 221, 302, 321
Description:	Foreign banks cannot be members of the Federal Reserve System, and thus may not vote for directors of a Federal Reserve Bank. Foreign-owned bank subsidiaries are not subject to this measure.

Sector:	Financial Services
Sub-Sector:	Banking and Other Financial Services (Excluding Insurance)
Obligations Concerned:	Market Access for Financial Institutions (Article 13.4)
Level of Government:	Central
Measures:	12 U.S.C. 36(g); 12 U.S.C. 1828(d)(4); 12 U.S.C. 1831u(a)(4)
Description:	The United States undertakes no commitment with respect to Article 13.4(b) in relation to the expansion, via the establishment of a branch or the acquisition of one or more branches of a bank without acquisition of the entire bank, by a foreign bank into another state from its “home state,” as that term is defined under applicable law. Except as provided elsewhere in this schedule, such expansion shall be accorded on a national treatment basis in accordance with headnote 2(a).

Sector:	Financial Services
Sub-Sector:	Banking and Other Financial Services (Excluding Insurance)
Obligations Concerned:	Market Access for Financial Institutions (Article 13.4)
Level of Government:	Central
Measures:	12 U.S.C. 1831u
Description:	Interstate expansion by a foreign bank through the establishment of branches by merger with a bank located outside the “home state,” as that term is defined under applicable law, of a foreign bank shall be accorded on a national treatment basis in accordance with headnote 2(a), except as provided elsewhere in this schedule.

Sector:	Financial Services
Sub-Sector:	Banking and Other Financial Services (Excluding Insurance)
Obligations Concerned:	National Treatment (Article 13.2) Market Access for Financial Institutions (Article 13.4)
Level of Government:	Central
Measures:	12 U.S.C. 3102(a)(1); 12 U.S.C. 3103(a); 12 U.S.C. 3102(d)
Description:	Establishment of a federal branch or agency by a foreign bank is not available in the following states that may prohibit establishment of a branch or agency by a foreign bank: • Branches and agencies may be prohibited in Alabama, Kansas, Maryland, North Dakota, and Wyoming. • Branches, but not agencies, may be prohibited in Delaware, Florida, Georgia, Idaho, Louisiana, Mississippi, Missouri, Oklahoma, Texas, and West Virginia. Certain restrictions on fiduciary powers apply to federal agencies. Note: The cited federal measures provide that certain state law restrictions shall apply to the establishment of federal branches or agencies.

Sector:	Financial Services
Sub-Sector:	Banking and Other Financial Services (Excluding Insurance)
Obligations Concerned:	Most-Favored-Nation Treatment (Article 13.3) Market Access for Financial Institutions (Article 13.4)
Level of Government:	Central
Measures:	15 U.S.C. 77jjj(a)(1)
Description:	The authority to act as a sole trustee of an indenture for a bond offering in the United States is subject to a reciprocity test.

Sector:	Financial Services
Sub-Sector:	Banking and Other Financial Services (Excluding Insurance)
Obligations Concerned:	Most-Favored-Nation Treatment (Article 13.3) Market Access for Financial Institutions (Article 13.4)
Level of Government:	Central
Measures:	22 U.S.C. 5341-5342
Description:	Designation as a primary dealer in U.S. government debt securities is conditioned on reciprocity. ⁴

⁴ A foreign-owned firm from any country that accords to United States companies the same competitive opportunities in the underwriting and distribution of government debt instruments as the country accords to a domestic company will be entitled to be designated as a primary dealer, assuming the firm meets applicable business requirements established by the Federal Reserve. If such country has entered into a Free Trade Agreement with the United States and the country has not taken a non-conforming measure to national treatment for its government debt market, that fact shall be a positive factor in the consideration of such firm's request for designation.

Sector:	Financial Services
Sub-Sector:	Banking and Other Financial Services (Excluding Insurance)
Obligations Concerned:	Most-Favored-Nation Treatment (Article 13.3)
Level of Government:	Central
Measures:	15 U.S.C. 78o(c)
Description:	A broker-dealer registered under U.S. law that has its principal place of business in Canada may maintain its required reserves in a bank in Canada subject to the supervision of Canada.

Sector:	Financial Services
Sub-Sector:	Banking and Other Financial Services (Excluding Insurance)
Obligations Concerned:	National Treatment (Article 13.2)
Level of Government:	Central
Measures:	12 U.S.C. 1421 et seq. (Federal Home Loan Banks); 12 U.S.C. 1451 et seq. (Federal Home Loan Mortgage Corporation); 12 U.S.C. 1717 et seq. (Federal National Mortgage Association); 12 U.S.C. 2011 et seq. (Farm Credit Banks); 12 U.S.C. 2279aa-1 et seq. (Federal Agricultural Mortgage Corporation); 20 U.S.C. 1087-2 et seq. (Student Loan Marketing Association)
Description:	The United States may grant advantages, including but not limited to the following, to one or more of the Government-Sponsored Enterprises (GSEs) listed above: • Capital, reserves and income of the GSE are exempt from certain taxation. • Securities issued by the GSE are exempt from registration and periodic reporting requirements under federal securities laws. • The U.S. Treasury may, in its discretion, purchase obligations issued by the GSE.

Sector:	Financial Services
Sub-Sector:	Banking and Other Financial Services (Excluding Insurance)
Obligations Concerned:	National Treatment (Article 13.2) Most-Favored-Nation Treatment (Article 13.3) Market Access for Financial Institutions (Article 13.4) Senior Management and Boards of Directors (Article 13.8)
Level of Government:	Regional
Measures:	All existing non-conforming measures of all states, the District of Columbia, and Puerto Rico.

Sector:	Financial Services
Sub-Sector:	Insurance
Obligations Concerned:	National Treatment (Article 13.2) Cross-Border Trade (Article 13.5)
Level of Government:	Central
Measures:	31 U.S.C. § 9304
Description:	Branches of foreign insurance companies are not permitted to provide surety bonds for U.S. Government contracts.

Sector:	Financial Services
Sub-Sector:	Insurance
Obligations Concerned:	National Treatment (Article 13.2) Cross-Border Trade (Article 13.5)
Level of Government:	Central
Measures:	46 C.F.R. § 249.9
Description:	When more than 50 per cent of the value of a maritime vessel whose hull was built under federally guaranteed mortgage funds is insured by a non-U.S. insurer, the insured must demonstrate that the risk was substantially first offered in the U.S. market.

Sector:	Financial Services
Sub-Sector:	Insurance
Obligations Concerned:	National Treatment (Article 13.2) Most-Favored-Nation Treatment (Article 13.3) Cross-Border Trade (Article 13.5) Senior Management and Boards of Directors (Article 13.8)
Level of Government:	Regional
Measures:	All existing non-conforming measures of all states, the District of Columbia, and Puerto Rico.

Section B

Sector:	Financial Services
Sub-Sector:	Insurance
Obligations Concerned:	Market Access for Financial Institutions (Article 13.4)
Level of Government:	All
Measures:	
Description:	The United States reserves the right to adopt or maintain any measure that is not inconsistent with the United States' obligations under Article XVI of the GATS.