

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

Non-Conforming Measures

- Each Party has a Schedule to this Annex setting out:
 - headnotes limiting or clarifying the commitments of a Party regarding the obligations described in subparagraphs (b) and (c);
 - in Section I, the reservations taken by that Party under Article 12.10(1) and (2) (Financial Services - Non-Conforming Measures) regarding existing measures that do not conform with obligations imposed by:
 - Article 12.03 (Financial Services - National Treatment),
 - Article 12.04 (Financial Services - Most-Favoured-Nation Treatment),
 - Article 12.05 (Financial Services - Right of Establishment),
 - Article 12.06 (Financial Services - Cross-Border Trade), or
 - Article 12.09 (Financial Services - Senior Management and Boards of Directors);
 - in Section II, the reservations taken by that Party under Article 12.10(3) (Financial Services - Non-Conforming Measures) for measures the Party may adopt or maintain that do not conform with obligations imposed by Article 12.03 (Financial Services - National Treatment), 12.04 (Financial Services - Most-Favoured-Nation Treatment), 12.05 (Financial Services - Right of Establishment), 12.06 (Financial Services - Cross-Border Trade) or 12.09 (Financial Services - Senior Management and Boards of Directors); and
 - in Section III, the specific commitments to liberalize measures undertaken by that Party under Article 12.10(4) (Financial Services - Non Conforming Measures).
- Each reservation in Section I may set out the following elements:
 - Sector** refers to the general sector in which the reservation is taken;
 - Sub-sector** refers to the specific sector in which the reservation is taken;
 - Industry Classification** refers to the activity covered by the reservation under the domestic industry classification codes;
 - Type of Reservation** specifies the obligation referred to in subparagraph 1(b) for which the reservation is taken;
 - Level of Government** indicates the level of government maintaining the measure for which the reservation is taken;

加拿大-巴拿马自由贸易协定 – 附件III：金融服务

非符合措施

- 每一方在本附件的清单中列出了：
 - 标题，限制或阐明一方关于第（b）和（c）项所述义务的承诺；
 - 在第一部分，根据第12.10(1)和（2）条（金融服务 - 非符合措施）所采取的保留，涉及与以下义务不符的现有措施：
 - 第12.03条（金融服务 - 国民待遇），
 - 第12.04条（金融服务 - 最惠国待遇），
 - 第12.05条（金融服务 - 设立权），
 - 第12.06条（金融服务 - 跨境贸易），或
 - 第12.09条（金融服务 - 高级管理人员和董事会）；
 - 在第二部分，根据第12.10(3)条（金融服务 - 非符合措施）所采取的保留，针对该方可能采取或维持的与第12.03条（金融服务 - 国民待遇）、12.04条（金融服务 - 最惠国待遇）、12.05条（金融服务 - 设立权）、12.06条（金融服务 - 跨境贸易）或12.09条（金融服务 - 高级管理人员和董事会）所述义务不符的措施；以及
 - 在第三部分，根据第12.10(4)条（金融服务 - 非符合措施）所做出的具体承诺，放宽该方所采取的措施。
- 第一部分的每个保留可以规定以下要素：
 - 部门**是指保留所涉及的总体部门；
 - 子部门**是指保留所涉及的特定部门；
 - 行业分类**是指保留所涵盖的活动，依据国内行业分类代码；
 - 保留类型**指定了第1(b)段中提到的义务，保留是针对该义务进行的；
 - 政府级别**表明了维护所保留措施的政府级别；

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

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

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

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

- the **Measures** element is qualified by a specific reference in the **Description** element, the **Measures** element as so qualified prevails over all other elements; and
- the **Measures** element is not so qualified, the **Measures** element prevails over all other elements, unless any discrepancy between the **Measures** element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the **Measures** element prevails, in which case the other elements prevail to the extent of that discrepancy.

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

6. Where a Party maintains a measure that requires that a service supplier be a citizen, permanent resident or resident of its territory as a condition to the supply of a service in its territory, a Schedule entry for that measure against Article 12.03 (Financial Services - National Treatment), 12.04 (Financial Services - Most-Favoured-Nation Treatment), 12.05 (Financial Services - Right of Establishment) or 12.06 (Financial Services - Cross-Border

• **措施**识别了依据**描述**元素所规定的法律、法规或其他措施，保留是针对这些措施进行的。在<样式 id='6'>措施</样式>元素中引用的措施：

- 指自本协定生效之日起修订、延续或重新生效的措施的日期，并且
- 包括在授权下采用或维持的、与本措施一致的下级措施；

• **描述**列出了现有措施的不符合方面，针对这些措施保留。它也可以列出自由化的承诺。

3. 第二部分中的每一项保留列出了以下要素：

• **部门**是指保留所采取的一般部门；• **子部门**是指保留所采取的具体部门；• **保留类型**规定了第1款(c)项所指的义务，针对该义务采取保留；• **政府级别**表明维持针对该保留采取的措施的政府级别；以及• **描述**列出了保留所涵盖的部门、子部门或活动的范围。

4. 在解释第一部分中的保留时，会考虑保留的所有要素。保留是根据所针对的章节的相关规定来解释的。在以下范围内：

- 如果**措施**要素在**描述**要素中得到了具体引用，则作为如此限定**措施**要素将优先于所有其他要素；并且
- 如果**措施**要素没有得到如此限定，则**措施**要素将优先于所有其他要素，除非**措施**要素与其他要素整体考虑之间的任何差异是如此重大和实质性，以至于得出**措施**要素优先的结论是不合理的，在这种情况下，其他要素将优先于该差异的程度。

5. 在解释第二部分中的保留时，会考虑保留的所有要素。**描述**要素将优先于所有其他要素。

6. 当一方维持一项措施，要求服务供应商必须是其领土的公民、永久居民或居民，作为在其领土内提供服务的一个条件时，针对第12.03条（金融服务 - 国民待遇）、12.04条（金融服务 - 最惠国待遇）、12.05条（金融服务 - 设立权）或12.06条（金融服务 - 跨境贸易）的措施的清单条目应作为针对第9.04条（投资 - 国民待遇）、9.05条（投资 - 最惠国待遇）或9.07条（投资 - 绩效要求）的措施清单条目，其程度与该措施相同。

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

Schedule of Canada – Headnotes

- 1. Commitments under this Agreement, in the sub-sectors listed in this Schedule, are undertaken subject to the limitations and conditions set forth in these headnotes and in the Schedule below.
- 2. To clarify the commitment of Canada with respect to Article 12.05 (Financial Services - Right of Establishment), enterprises supplying financial services and constituted under the laws of Canada are subject to non-discriminatory limitations on juridical form. For example, partnerships and sole proprietorships with limited or unlimited liability are generally not acceptable juridical forms for financial institutions in Canada. This headnote does not affect or otherwise limit a choice by an investor of the other Party between branches and subsidiaries.

Schedule of Panama – Headnotes

- 1. Commitments under this Agreement, in the sub-sectors listed in this Schedule, are undertaken subject to the limitations and conditions set forth in these headnotes and in the Schedule below.
- 2. To clarify the commitment of Panama with respect to Article 12.05 (Financial Services - Right of Establishment), enterprises supplying financial services and constituted under the laws of Panama are subject to non-discriminatory limitations on juridical form. For example, limited liability partnerships and sole proprietorships with limited liability are generally not acceptable juridical forms for financial institutions in Panama. This headnote does not affect, or otherwise limit, a choice by an investor of the other Party between branches and subsidiaries.

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贸易）作为清单条目，在程度范围内对应第9.04条（投资 - 国民待遇）、9.05条（投资 -- 最惠国待遇）或9.07条（投资 - 绩效要求）。

加拿大清单 – 标题

- 1. 本协议项下的承诺，在本文所列的子部门中，受限于这些标题和下文清单中规定的限制和条件。
- 2. 为明确加拿大就第12.05条（金融服务 - 设立权）项下的承诺，根据加拿大法律设立的提供金融服务的实体，在法律形式上受非歧视性限制。例如，具有有限责任或无限责任的合伙企业和个体工商户通常不被接受为加拿大金融机构的法律形式。本标题不影响或以其他方式限制投资者在另一方之间选择分支机构或子公司的选择。

巴拿马清单 – 标题

- 1. 本协议项下的承诺，在本文所列的子部门中，受限于这些标题和下文清单中规定的限制和条件。
- 2. 为明确巴拿马就第12.05条（金融服务 - 设立权）项下的承诺，根据巴拿马法律设立的提供金融服务的实体，在法律形式上受非歧视性限制。例如，有限责任公司和具有有限责任的个体工商户通常不被接受为巴拿马金融机构的法律形式。本标题不影响，或以其他方式限制，投资者在另一方之间选择分支机构或子公司的选择。

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