

CHAPTER ELEVEN

FINANCIAL SERVICES

Article 1101: Scope and Coverage

1. This Chapter applies to measures adopted or maintained by a Party relating to:
- (a) financial institutions of the other Party;
 - (b) investors of the other Party, and investments of such investors, in financial institutions in the Party's territory; and
 - (c) cross-border trade in financial services.
2. Chapters Eight (Investment) and Nine (Cross-Border Trade in Services) apply to measures described in paragraph 1 only to the extent that such Chapters or Articles of such Chapters are incorporated into this Chapter.
- (a) Articles 813 (Investment - Transfers), 812 (Investment - Expropriation and Compensation), 816 (Investment - Special Formalities and Information Requirements), 815 (Investment - Denial of Benefits), 809 (Investment - Health, Safety and Environmental Measures) and 912 (Cross-Border Trade in Services - Denial of Benefits) are hereby incorporated into and made a part of this Chapter.

第十一章

金融服务

第1101条：范围与涵盖内容

1. 本章适用于缔约方采取或维持的与下列事项相关的措施：
- (a) 另一缔约方的金融机构；(b) 另一缔约方的投资者及其在缔约方领土内金融机构的投资；以及(c) 跨境金融服务贸易。
2. 第八章（投资）和第九章（跨境服务贸易）仅在其条款或本章已纳入的范围内适用于第1款所述措施。
- (a) 第813条（投资—转移）、第812条（投资—征收与补偿）、第816条（投资—特殊手续与信息要求）、第815条（投资—利益拒绝）、第809条（投资—健康、安全与环境措施）以及第912条（跨境服务贸易—利益拒绝）特此并入本章并成为其组成部分。

(b) Section B of Chapter Eight is hereby incorporated into and made a part of this Chapter solely for claims that a Party has breached Articles 813 (Investment - Transfers), 812 (Investment - Expropriation and Compensation), or 815 (Investment - Denial of Benefits) as incorporated into this Chapter, or claims pursuant to subparagraph 1(c) of Article 819 (Investment - Claim by an Investor of a Party on Its Own Behalf) or subparagraph 1(c) of Article 820 (Investment - Claim by an Investor of a Party on Behalf of an Enterprise) that a Party has breached a legal stability agreement.

(c) Article 911 (Cross-Border Trade in Services - 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 1105.

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

- (a) activities or services forming part of a public retirement plan or statutory system of social security; or
- (b) activities or services for the account or with the guarantee or using the financial resources of the Party, including its public entities.

4. Annex 1101.3(a) sets out the Parties' understanding with respect to certain activities or services described in subparagraph 3(a).

5. Annex 1101.5 sets out, for greater certainty, certain understandings between the Parties regarding financial services measures.

(b) 第八章B节特此并入本章，仅适用于以下索赔：缔约方违反已并入本章的第813条（投资—转移）、第812条（投资—征收与补偿）或第815条（投资—利益拒绝），或根据第819条第1款(c)项（投资—缔约一方投资者代表其自身提起的索赔）或第820条第1款(c)项（投资—缔约一方投资者代表企业提起的索赔）提出的关于缔约方违反法律稳定性协议的索赔。

(c) 第911条（跨境服务贸易—转移与支付）被纳入本章并成为其组成部分，前提是跨境金融服务贸易须遵守第1105条规定的义务。

3. 本章任何规定不得解释为阻止缔约方（包括其公共实体）在其领土内独家经营或提供：

- (a) 构成公共退休计划或法定社会保障体系组成部分的活动或服务；或
- (b) 为缔约方（包括其公共实体）账户、由其担保或使用其财政资源进行的活动或服务。

4. 附件1101.3(a)列明了缔约方对第3款(a)项所述特定活动或服务的理解。

5. 附件1101.5为明确起见，列明了缔约方之间关于金融服务措施的某些谅解。

Article 1102: National Treatment

1. Each Party shall accord to investors of the other Party treatment no less favourable than that it accords to its own investors, in like circumstances, with respect to the establishment, acquisition, expansion, management, conduct, operation and sale or other disposition of financial institutions and investments in financial institutions in its territory.
2. Each Party shall accord to financial institutions of the other Party and to investments of investors of the other Party in financial institutions treatment no less favourable than that it accords to its own financial institutions and to investments of its own investors in financial institutions, in like circumstances, with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of financial institutions and investments.
3. For purposes of the national treatment obligations in paragraph 1 of Article 1105, a Party shall accord to cross-border financial service suppliers of the other Party treatment no less favourable than that it accords to its own financial service suppliers, in like circumstances, with respect to the supply of the relevant service.
4. The treatment that a Party is required to accord under paragraphs 1, 2 and 3 means, with respect to measures adopted or maintained by a sub-national government, treatment no less favourable than the most favourable treatment accorded, in like circumstances, by that sub-national government to investors in financial institutions, financial institutions, investments of investors in financial institutions and financial service suppliers, of the Party of which it forms a part.
5. Differences in market share, profitability or size do not in themselves establish a breach of the obligations under this Article.

第1102条：国民待遇

1. 每一缔约方应给予另一缔约方投资者在设立、收购、扩展、管理、经营、运营及出售或其他处置其领土内金融机构及对金融机构的投资方面，在类似情况下不低于其给予本国投资者的待遇。
2. 每一缔约方在类似情况下，就金融机构的设立、收购、扩展、管理、经营、运营及出售或其他处置以及投资方面，应给予另一缔约方的金融机构及另一缔约方投资者在金融机构中的投资，不低于其给予本国金融机构及本国投资者在金融机构中的投资的待遇。
3. 就第1105条第1款中的国民待遇义务而言，一缔约方在类似情况下，应就相关服务的提供，给予另一缔约方的跨境金融服务供应商不低于其给予本国金融服务供应商的待遇。
4. 一缔约方根据第1款、第2款和第3款要求给予的待遇，对于地方政府采取或维持的措施而言，是指在类似情况下，该地方政府给予其所属缔约方的金融机构投资者、金融机构、金融机构投资者的投资及金融服务供应商的最优惠待遇。
5. 市场份额、盈利能力或规模的差异本身并不构成对本条义务的违反。

Article 1103: Most-Favoured-Nation Treatment

1. Each Party shall accord to investors of the other Party, financial institutions of the other Party, investments of investors of the other Party in financial institutions and cross-border financial service suppliers of the other Party treatment no less favourable than that it accords to the investors, financial institutions, investments of investors in 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 will 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 subparagraph 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.

第1103条：最惠国待遇

1. 每一缔约方应给予另一缔约方的投资者、金融机构 s
对于另一缔约方的投资者、金融机构、投资者在金融机构中的投资以及另一缔约方的跨境金融服务供应商，在类似情况下，给予的待遇不得低于其给予非缔约方的投资者、金融机构、投资者在金融机构中的投资以及跨境金融服务供应商的待遇。
2. 缔约方在适用本章所涵盖的措施时，可承认非缔约方的审慎措施。此类承认可通过以下方式实现：
- (a) 单方面给予；(b) 通过协调或其他方式达成；或 (c) 基于与非缔约方的协定或安排。
3. 根据第2款承认审慎措施的缔约方，应为另一缔约方提供充分机会，以证明存在或将存在以下情况：缔约方之间具有或将会具有等效的监管、监督、监管实施，以及在适当情况下的信息共享程序。
4. 如一缔约方根据第2款(c)项对审慎措施给予承认，且存在第3款所述情形，则该缔约方应为另一缔约方提供充分机会，以谈判加入该协定或安排，或谈判达成类似协定或安排。

Article 1104: Right of Establishment

1. A Party shall permit an investor of the other Party that does not own or control a financial institution in the Party's territory to establish a financial institution permitted to supply financial services that such an institution may supply under the domestic law of the Party at the time of establishment, without the imposition of numerical restrictions or requirements to take a specific juridical form. The obligation not to impose requirements to take a specific juridical form does not prevent a Party from imposing conditions or requirements in connection with the establishment of a particular type of entity chosen by an investor of the other Party.
2. A Party shall permit an investor of the other Party that owns or controls a financial institution in the Party's territory to establish such additional financial institutions as may be necessary for the supply of the full range of financial services allowed under the domestic law of the Party at the time of establishment of the additional financial institutions. Subject to Article 1102, a Party may impose terms and conditions on the establishment of additional financial institutions and determine the institutional and juridical form that shall be used for the supply of specified financial services or the carrying out of specified activities.
3. The right of establishment under paragraphs 1 and 2 shall include the acquisition of existing entities.
4. Subject to Article 1102, a Party may, in exceptional circumstances, prohibit a particular financial service or activity. Such a prohibition may not apply to all financial services or to a complete financial services sub-sector such as banking.
5. For the purpose of this Article, without prejudice to other forms of prudential regulation, a Party may require that an investor of the other Party be engaged in the business of providing financial services in the territory of that Party.

第1104条：设立权

1. 一缔约方应允许另一缔约方的投资者（该投资者未拥有或控制该缔约方领土内的金融机构）设立金融机构，该金融机构可提供设立时根据该缔约方国内法允许提供的金融服务，且不得施加数量限制或要求采用特定法律形式。不施加采用特定法律形式要求的义务不妨碍一缔约方对另一缔约方投资者选择的特定类型实体的设立施加条件或要求。
2. 一缔约方应允许另一缔约方的投资者在其领土内拥有或控制的金融机构设立必要的额外金融机构，以提供该缔约方在设立额外金融机构时其国内法所允许的全部金融服务范围。根据第1102条，缔约方可对设立额外金融机构施加条款和条件，并确定用于提供特定金融服务或开展特定活动的机构和法律形式。
3. 第1和第2段规定的设立权应包括收购现有实体。
4. 根据第1102条，缔约方可，在特殊情况下禁止特定的金融服务或活动。此类禁令不得适用于所有金融服务或完整的金融服务子行业，如银行业。
5. 就本条而言，在不影响其他形式的审慎监管的情况下，一缔约方可要求另一缔约方的投资者在该缔约方的领土内从事提供金融服务的业务。

6. For the purpose of this Article, “numerical restrictions” means limitations imposed, either on the basis of a regional subdivision or on the basis of the entire territory of a Party, on the number of financial institutions whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test.

Article 1105: 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 financial services specified in Annex 1105.

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 Article so long as such definitions are not inconsistent with the obligation of 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.

6. 就本条而言，“数量限制”是指无论以数量配额、垄断、独家服务供应商的形式还是以经济需求测试的要求，对金融机构的数量施加的限制，无论是基于地区细分还是基于一缔约方的整个领土。

第1105条：跨境贸易

1. 每一缔约方应根据给予国民待遇的条款和条件，允许另一缔约方的跨境金融服务供应商提供附件1105中规定的金融服务。

2. 每一缔约方应允许位于其领土内的人士及无论位于何处的其国民，从位于另一方领土的另一缔约方的跨境金融服务供应商处购买金融服务。此项义务不要求一缔约方允许此类供应商在其领土内开展业务或进行招揽。各缔约方可为本条之目的对“开展业务”和“招揽”作出定义，只要此类定义不与第1款的义务相抵触。

3. 在不影响跨境金融服务贸易其他审慎监管手段的前提下，一缔约方可要求对另一缔约方的跨境金融服务供应商及金融工具进行注册。

Article 1106: New Financial Services

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 financial service does not require the Party to adopt new statutes or modify existing statutes.
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.
3. Nothing in this Article prevents a financial institution of a Party from applying to the other Party to consider authorizing the supply of a financial service that is not supplied within either Party's territory. Such application shall be subject to the domestic law of the Party to which the application is made and, for greater certainty, shall not be subject to the obligations of this Article.

Article 1107: Treatment of Certain Information

Nothing in this Chapter requires 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

第1106条：新金融服务

1. 各缔约方应允许另一方的金融机构在按要求向相关监管机构提出请求或通知后，提供该缔约方在类似情况下允许其本国金融机构根据其国内法提供的任何新金融服务，前提是该金融服务的引入不要求该缔约方通过新法规或修改现有法规。
2. 缔约方可确定提供新金融服务的机构及法律形式，并可要求该服务的提供需获得授权。若缔约方允许提供新金融服务且需要授权，则应在合理时间内作出决定，且仅可基于审慎原因拒绝授权。
3. 本条任何规定不得阻止一缔约方金融机构向另一缔约方申请考虑授权提供未在任一缔约方领土内提供的金融服务。此类申请应受申请提交方国内法管辖，且明确不适用本条规定的义务。

第1107条：特定信息的处理

本章不要求缔约方提供或允许获取以下信息：

- (a) 与金融机构或跨境金融服务供应商个人客户的财务事务及账户相关的信息；或

- (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 1108: Senior Management and Boards of Directors

- 1. Neither Party may require financial institutions of the other Party to engage natural persons of any particular nationality as senior managerial or other essential personnel.
- 2. Neither Party may require that more than a simple majority of the board of directors of a financial institution of the other Party be composed of nationals of the Party, natural persons residing in the territory of the Party, or a combination thereof.

Article 1109: Non-Conforming Measures

- 1. Articles 1102, 1103, 1104 and 1108 do not apply to:
 - (a) any existing non-conforming measure that is maintained by a Party at the level of the:
 - (i) national government, as set out in Section I of its Schedule to Annex III, or
 - (ii) sub-national government;
 - (b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or

- (b) 任何机密信息，其披露会妨碍执法，或以其他方式违背公共利益或损害特定企业的合法商业利益。

第1108条：高级管理层和董事会

- 1. 任何一方不得要求另一方的金融机构雇佣任何特定国籍的自然人担任高级管理人员或其他核心人员。
- 2. 任何一方不得要求另一方的金融机构董事会中超过简单多数的成员由该缔约方的国民、居住在该缔约方领土内的自然人或两者的组合构成。

第1109条：不符措施

- 1. 第1102条、第1103条、第1104条和第1108条不适用于：
 - (a) 缔约方在以下层级维持的任何现有不符措施：(i) 中央政府，如其附件三减让表第一节所列，或(ii) 地方政府；
 - (b) 延续或及时更新(a)项所指的任何不符合措施；或

- (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 1102, 1103, 1104 and 1108.

2. Article 1105 does not apply to:

- (a) any existing non-conforming measure that is maintained by a Party at the level of the:
 - (i) national government, as set out in Section I of its Schedule to Annex III, or
 - (ii) sub-national 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 upon the entry into force of this Agreement, with Article 1105.

3. Articles 1102, 1103, 1104, 1105 and 1108 do not apply to any non-conforming measure that a Party adopts or maintains in accordance with Section II of its Schedule to Annex III.

4. Section III of each Party’s Schedule to Annex III sets out certain specific commitments by that Party.

- (c) 对(a)项所指的任何不符合措施的修正案，只要该修正案未降低该措施在修正前与第1102条、第1103条、第1104条和第1108条的符合程度。

2. 第1105条不适用于：

- (a) 缔约方在以下层级维持的任何现有不符措施：(i) 中央政府，如其附件三减让表第一节所列，或(ii) 地方政府；(b) 对(a)项所述任何不符措施的延续或及时更新；或(c) 对(a)项所述任何不符措施的修正案，只要该修正案未降低该措施在本协定生效时与第1105条的符合程度。

3. 第1102、1103、1104、1105和1108条不适用于缔约方根据其附件三减让表第二节采取或维持的任何不符合措施。

4. 各缔约方附件三的附表第三节列出了该缔约方的某些具体承诺。

5. Where a Party has set out a reservation to Article 803 (Investment - National Treatment), 804 (Investment - Most-Favoured-Nation Treatment), 903 (Cross-Border Trade in Services - National Treatment) or 904 (Cross-Border Trade in Services - Most-Favoured-Nation Treatment) in its Schedule to Annex I or II, the reservation also constitutes a reservation to Article 1102 or 1103, as the case may be, to the extent that the measure, sector, sub-sector or activity set out in the reservation is covered by this Chapter.

Article 1110: Exceptions

1. Nothing in this Chapter or Chapter Eight (Investment), Chapter Nine (Cross-Border Trade in Services), Chapter Ten (Telecommunications), Chapter Twelve (Temporary Entry of Business Persons), Chapter Thirteen (Competition Policy, Monopolies and State Enterprises), or Chapter Fifteen (Electronic Commerce) shall be construed to prevent a Party from adopting or maintaining measures for prudential reasons,¹ 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 obligations under such provisions.

¹ 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.

5. 如一缔约方在其附件I或II的附表中对第803条（投资-国民待遇）、第804条（投资-最惠国待遇）、第903条（跨境服务贸易-国民待遇）或第904条（跨境服务贸易-最惠国待遇）列出保留，则该保留在相关措施、部门、分部门或活动受本章涵盖的范围内，亦构成对第1102条或第1103条的保留。

第1110条：例外情况

1. 本章或第八章（投资）、第九章（跨境服务贸易）、第十章（电信）、第十二章（商务人员临时入境）、第十三章（竞争政策、垄断和国有企业）或第十五章（电子商务）中的任何规定，均不得解释为阻止缔约方出于审慎原因¹ 采取或维持措施，包括为保护投资者、存款人、保单持有人或金融机构或跨境金融服务供应商对其负有受托责任的人，或为确保金融体系的完整性和稳定性。若此类措施不符合本段所述本协定的规定，则不得将其用作规避缔约方根据此类规定所承担义务的手段。

¹ “审慎原因”一词包括维护单个金融机构或跨境金融服务供应商的安全、稳健、完整或财务责任。

2. Nothing in this Chapter or Chapter Eight (Investment), Chapter Nine (Cross-Border Trade in Services), Chapter Ten (Telecommunications), Chapter Twelve (Temporary Entry of Business Persons), Chapter Thirteen (Competition Policy, Monopolies and State Enterprises), or Chapter Fifteen (Electronic Commerce) 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 807 (Investment - Performance Requirements) with respect to measures covered by Chapter Eight (Investment), Article 813 (Investment - Transfers) or Article 912 (Cross Border Services - Transfers and Payments).

3. Notwithstanding Article 813 (Investment - Transfers) and Article 912 (Cross Border Services - 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.

2. 本章或第八章（投资）、第九章（跨境服务贸易）、第十章（电信）、第十二章（商务人员临时入境）、第十三章（竞争政策、垄断和国有企业）或第十五章（电子商务）中的任何规定，均不适用于任何公共实体为实施货币及相关信贷政策或汇率政策而采取的普遍适用的非歧视性措施。本段不影响缔约方根据第807条（投资—业绩要求）就第八章（投资）所涵盖措施、第813条（投资—转移）或第912条（跨境服务—转移和支付）所承担的义务。

3. 尽管有第813条（投资—转移）和第912条（跨境服务—转移和支付）（已纳入本章），一缔约方仍可通过公平、非歧视和善意地适用与维护金融机构或跨境金融服务供应商的安全、稳健、诚信或财务责任相关的措施，阻止或限制金融机构或跨境金融服务供应商向其附属机构或与该机构或供应商有关联的人进行转移或为其利益进行转移。本款不影响本协定中允许缔约方限制转移的任何其他规定。

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 investment in financial institutions or cross-border trade in financial services, as covered by this Chapter.

Article 1111: Transparency

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

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

3. 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;
- (b) provide interested persons and the other Party a reasonable opportunity to comment on such proposed regulations; and

4. 为进一步明确，本章任何规定不得解释为阻止一缔约方采取或执行确保遵守与本章不相抵触的法律法规所必需的措施，包括与防止欺骗和欺诈行为或处理金融服务合同违约影响相关的措施，但条件是此类措施的适用方式不得构成在条件相同的国家之间实施任意或不合理的歧视，或构成对本章所涵盖的金融机构投资或跨境金融服务贸易的变相限制。

第1111条：透明度

1. 缔约方认识到，规范金融机构和金融服务供应商活动的透明法规和政策，对于促进金融机构和金融服务供应商进入彼此市场并在其中运营至关重要。每一缔约方承诺提升金融服务领域的监管透明度。

2. 每一缔约方应确保本章所适用的所有普遍适用的措施均以合理、客观和公正的方式实施。

3. 每一缔约方应，在可行范围内：

- (a) 提前公布其拟采纳的与本章主题相关的普遍适用的法规；(b) 为利益相关方及另一缔约方提供对此类拟议法规发表意见的合理机会；

- (c) allow reasonable time between publication of final regulations and their effective date,

and these requirements shall replace those set out in Article 1901 (Transparency - Publication).

4. 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.

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

6. A regulatory authority shall make an administrative decision on a completed application of an investor in a financial institution, 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 endeavour to make the decision within a reasonable time thereafter.

7. Each Party shall maintain or establish appropriate mechanisms that will, as soon as practicable, respond to inquiries from interested persons regarding measures of general application covered by this Chapter.

8. On the request of an unsuccessful applicant, a regulatory authority that has denied an application shall, to the extent practicable, inform the applicant of the reasons for denial of the application.

- (c) 在最终法规公布与生效日期之间留出合理时间，

且这些要求应取代第1901条（透明度-公布）中列出的要求。

4. 每一缔约方的监管机构应向利益相关方提供其关于完成金融服务供应申请的要求，包括所需的任何文件。

5. 应申请人要求，监管机构应告知申请人其申请的状态。如该机构需要申请人提供额外信息，应立即通知申请人。

6. 监管机构应在120天内对另一缔约方的金融机构投资者、金融机构或跨境金融服务供应商提交的关于金融服务供应的完整申请作出行政决定，并应立即将决定通知申请人。在所有相关听证会举行且收到所有必要信息之前，申请不应被视为完整。如无法在120天内作出决定，监管机构应立即通知申请人，并应努力在此后的合理时间内作出决定。

7. 每一缔约方均应维持或建立适当机制，以便在实际可行的情况下尽快回应利益相关方就本章所涵盖的普遍适用的措施提出的询问。

8. 应未获批准的申请人要求，拒绝申请的监管机构应在可行范围内告知申请人拒绝申请的理由。

Article 1112: 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 the territory of that Party, the Party shall ensure observance of the obligations of Articles 1102, 1103, 1104, 1111 and other relevant Articles of this Chapter by such self-regulatory organization.

Article 1113: Payment and Clearing Systems

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

Article 1114: Financial Services Committee

1. The Parties hereby establish the Financial Services Committee (the “Committee”). The principal representative of each Party shall be an official of the Party's authority responsible for financial services set out in Annex 1114.
2. In accordance with Article 2001 (Administration of the Agreement - The Joint Commission), the Committee shall:
 - (a) supervise the implementation of this Chapter and its further elaboration;

第1112条：自律组织

如一缔约方要求另一缔约方的金融机构或跨境金融服务供应商成为会员、参与或加入自律组织以在该缔约方的领土内或向该领土提供金融服务，则该缔约方应确保此类自律组织遵守第1102、1103、1104、1111条及本章其他相关条款的义务。

第1113条：支付和清算系统

在符合国民待遇的条款和条件下，每一缔约方应准许在其领土内设立的另一缔约方金融机构使用由公共实体运营的支付和清算系统，以及在正常业务过程中可获得的官方资金和再融资设施。本条无意授予使用缔约方最后贷款人设施的权利。

第1114条：金融服务委员会

1. 缔约方特此设立金融服务委员会（简称“委员会”）。每一缔约方的主要代表应为该缔约方负责附件1114所列金融服务的监管机构的官员。
2. 根据第2001条（协议管理-联合委员会），委员会应：
 - (a) 监督本章的实施及其进一步细化；

- (b) consider issues regarding financial services that are referred to it by a Party; and
- (c) participate in the dispute settlement procedures in accordance with Article 1117.

3. The Committee shall meet annually, or as it otherwise agrees, to assess the functioning of this Agreement as it applies to financial services. The Committee shall inform the Commission of the results of each meeting.

Article 1115: 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 Committee.
- 2. Officials from the authorities specified in Annex 1114 shall participate in the consultations under this Article.
- 3. A Party may request that regulatory authorities of the other Party participate in consultations under this Article regarding that other Party’s measures of general application which may affect the operations of financial institutions or cross-border financial service suppliers in the requesting Party’s territory.
- 4. Nothing in this Article shall be construed to require regulatory authorities participating in consultations pursuant to paragraph 3 to disclose information or take any action that would interfere with specific regulatory, supervisory, administrative or enforcement matters.

(b) 审议缔约方提交的关于金融服务的问题；以及 (c) 根据第1117条参与争端解决程序。

3. 委员会应每年召开会议，或按其另行商定的安排，评估本协定在金融服务领域的实施情况。委员会应向委员会通报每次会议的成果。

第1115条：磋商

- 1. 一缔约方可就本协定项下影响金融服务的任何事项请求与另一缔约方进行磋商。另一缔约方应对该请求给予积极考虑。缔约双方应向委员会报告磋商结果。
- 2. 附件1114所列机构的官员应参与本条项下的磋商。
- 3. 一缔约方可请求另一缔约方的监管机构参与本条项下的磋商，内容涉及该另一缔约方可能影响请求方领土内金融机构或跨境金融服务供应商运营的普遍适用措施。
- 4. 本条规定不得解释为要求参与第3款下磋商的监管机构披露信息或采取任何可能干扰具体 监管、行政或执法事项的行动。

5. Where a Party requires information for supervisory purposes concerning a financial institution in the other Party’s territory or a cross-border financial service supplier in the other Party’s territory, the Party may approach the competent regulatory authority in the other Party’s territory to seek the information.

6. Nothing in this Article shall be construed to require a Party to derogate from its domestic law regarding the sharing of information among financial regulators or the requirements of an agreement or arrangement between financial authorities of the Parties.

Article 1116: Dispute Settlement

1. Chapter Twenty-One (Dispute Settlement), as modified by this Article, applies to the settlement of disputes arising under this Chapter.
2. Consultations held pursuant to Article 1115 with respect to a measure or matter constitute consultations under Article 2104 (Dispute Settlement - Consultations), unless the Parties otherwise agree. If the matter has not been resolved within 45 days after commencing consultations under Article 1115 or 90 days after the delivery of the request for consultations pursuant to Article 1115, whichever is earlier, the complaining Party may request in writing the establishment of a panel.
3. The following procedures shall replace Article 2108 (Dispute Settlement - Panel Selection):

(a) the panel shall be composed of three members;

5. 如一缔约方出于监管目的需要关于位于另一缔约方领土内的金融机构或跨境金融服务供应商的信息，该缔约方可向另一缔约方领土内的主管监管机构寻求此类信息。

6. 本条规定不得解释为要求缔约方减损其国内法中关于金融监管机构之间信息共享的规定，或减损缔约方金融当局之间协定或安排的要求。

第1116条：争端解决

1. 经本条修改后的第二十一章（争端解决）适用于解决本章项下产生的争端。
2. 依据第1115条就某项措施或事项进行的磋商，构成第2104条（争端解决-磋商）项下的磋商，除非缔约方另有约定。若该事项未能在依据第1115条启动磋商后45天内或依据第1115条提交磋商请求后90天内（以较早者为准）得到解决，申诉方可书面请求设立专家组。
3. 下列程序应取代第2108条（争端解决-专家组选择）：

(a) 专家组应由三名成员组成；

- (b) each Party shall, within 30 days of the delivery of the request for the establishment of the panel, appoint a panelist who may be a national of that Party and notify the other Party in writing of the appointment. If a Party fails to appoint a panelist within 30 days, the other Party may request the Appointing Authority to appoint, in its discretion, and subject to paragraph 4, the panelist not yet appointed;
- (c) the Parties shall endeavour to agree on the appointment of the third panelist who shall chair the panel and, unless the Parties agree otherwise, shall not be a national of either Party. If the chair of the panel has not been appointed within 30 days of the most recent appointment under subparagraph (b), either Party may request the Appointing Authority to appoint, in its discretion, and subject to paragraph 4, the chair of the panel, who shall not be a national of either Party;
- (d) subparagraphs (b) and (c) shall apply *mutatis mutandis* where a panelist or the chair of the panel withdraws, is removed or becomes unable to serve on the panel. In such a case, any time period applicable to the panel proceeding shall be suspended for a period beginning on the date a panelist ceases to serve and ending on the date the replacement is appointed.

4. Each panelist on panels constituted for disputes arising under this Chapter shall have the qualifications required by Article 2107 (Dispute Settlement - Qualification of Panelists) with the exception of subparagraph 1(d) of that Article. In addition, they shall have expertise or experience in financial services law or practice, which may include the regulation of financial institutions.

(b) 每一缔约方应在收到设立专家组请求后30天内任命一名专家组成员（该成员可为该缔约方国民），并以书面形式将任命通知另一缔约方。若一缔约方未能在30天内任命专家组成员，另一缔约方可请求任命机构根据第4段规定，在其 裁量权范围内任命尚未委派的专家组成员；

(c) 缔约方应尽力就第三位专家组成员的任命达成一致，该成员将担任专家组主席，且除非缔约方另有约定，不得为任一缔约方的国民。若在依据(b)项完成最近一次任命后30日内仍未任命专家组主席，任一缔约方可请求任命机构酌情根据第4款任命专家组主席，该主席不得为任一缔约方的国民；

(d) 当专家组成员或专家组主席退出、被撤换或无法继续履行专家组职责时，(b)项和(c)项应*mutatis mutandis* 适用。在此情况下，专家组程序所涉任何时限应自专家组成员停止履职之日起中止，至继任者被任命之日止。

4. 根据本章产生的争端所组成的专家组，每位专家组成员须具备第2107条（争端解决——专家组成员资格）规定的资格，但该条第1款(d)项除外。此外，他们还应具备金融服务法或实务方面的专业知识或经验，其中可包括金融机构监管。

5. In any dispute where a panel finds a measure to be inconsistent with the obligations of this Agreement and the measure affects:

- (a) only the financial services sector, the complaining Party may suspend benefits only in the financial services sector;
- (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 measures in the Party's financial services sector; or
- (c) only a sector other than the financial services sector, the complaining Party may not suspend benefits in the financial services sector.

Article 1117: Investment Disputes in Financial Services

1. Where an investor of a Party submits a claim under Article 819 (Investment - Claim by an Investor of a Party on Its Own Behalf) or 820 (Investment - Claim by an Investor of a Party on Behalf of an Enterprise) to arbitration under Section II of Chapter Eight (Investment) and the respondent invokes an exception under Article 1110, on request of the respondent the Tribunal shall refer the matter in writing to the Committee for a decision in accordance with paragraph 2. The Tribunal may not proceed pending receipt of a decision or report under this Article.

2. In a referral pursuant to paragraph 1, the Committee shall decide the issue of whether and to what extent Article 1110 is a valid defence to the claim of the investor. The Committee shall transmit a copy of its decision to the Tribunal and to the Commission. The decision shall be binding on the Tribunal.

5. 在任何争端中，如专家组认定某项措施不符合本协定规定的义务，且该措施影响到：

- (a) 仅涉及金融服务部门时，申诉方仅可中止金融服务部门的利益；
- (b) 涉及金融服务部门及其他任何部门时，申诉方可中止金融服务部门中与缔约方金融服务部门措施效果相当的利益；或(c) 仅涉及金融服务部门以外的部门时，申诉方不得中止金融服务部门的利益。

第1117条：金融服务中的投资争端

1. 当缔约方的投资者根据第819条（投资—缔约一方投资者代表其自身提起的索赔）或第820条（投资—缔约一方投资者代表企业提起的索赔）将索赔提交至第八章（投资）第二节下的仲裁，且被诉方援引第1110条的例外时，应被诉方请求，仲裁庭应以书面形式将该事项提交委员会根据第2款作出决定。在收到本条项下的决定或报告前，仲裁庭不得继续推进程序。

2. 在根据第1款进行的转介中，委员会应决定第1110条是否以及在何种程度上构成对投资者主张的有效抗辩。委员会应将其决定副本传送给仲裁庭和委员会。该决定对仲裁庭具有约束力。

3. Where the Committee has not decided the issue within 60 days of the receipt of the referral under paragraph 1, either Party may, within 10 days thereafter, request the establishment of an panel under Article 2106 (Dispute Settlement - Establishment of a Panel) to decide the issue. The panel shall be constituted in accordance with Article 1116. Further to Article 2110 (Dispute Settlement - Panel Reports), the panel shall transmit its final report to the Committee and to the Tribunal. The report shall be binding on the Tribunal.

4. Where no request for the establishment of a panel pursuant to paragraph 3 has been made within 10 days after the 60-day period referred to in paragraph 3, the Tribunal may proceed to decide the matter.

Article 1118: Definitions

For purposes of this Chapter:

Appointing Authority means the Secretary-General, Deputy Secretary-General or next senior member of the staff of the International Centre for Settlement of Investment Disputes, who is not a national of either Party;

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;

3. 若委员会未能在收到第1款项下转介后60天内就该问题作出决定，任一缔约方可在此后10天内请求根据第2106条（争端解决-专家组的设立）设立专家组以裁决该问题。专家组应按照第1116条组成。根据第2110条（争端解决-专家组报告），专家组应将其最终报告提交委员会和仲裁庭。该报告对仲裁庭具有约束力。

4. 如在第3款所指60天期限届满后10天内未根据第3款提出设立专家组的请求，仲裁庭可继续对该事项作出裁决。

第1118条：定义

就本章而言：

任命机构指秘书长、副秘书长或国际投资争端解决中心工作人员中非任一缔约方国民的下一位资深成员；

缔约方的跨境金融服务供应商 指在缔约方领土内从事提供金融服务的业务，并寻求通过此类服务的跨境提供来提供或实际提供金融服务的缔约方的个人；

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 a Party by a person of that Party to a person of the other Party; or
- (c) by a national of a Party in the territory of the other Party,

but does not include the supply of a service in the territory of a Party by an investment in that territory;

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:

跨境金融服务贸易 或 **金融服务的跨境提供** 指下列金融服务的提供:

- (a) 从一方领土进入另一方领土; (b) 在一方领土内由该方人员向另一方人员提供; 或 (c) 由一方国民在另一方领土内提供,

但不包括通过在一方领土内的投资在该领土内提供服务;

金融机构 指根据其所在领土的该方法律被授权开展业务并作为金融机构受监管或监督的任何金融中介或其他企业;

另一方的金融机构 指位于一方领土内、由另一方人员控制的金融机构, 包括分支机构;

金融服务 指具有金融性质的任何服务。金融服务包括所有保险及与保险相关的服务, 以及所有银行及其他金融服务 (不包括保险), 还包括金融性质服务的附带或辅助服务。金融服务包括以下活动:

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) Service 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;

保险及与保险相关的服务

- (a) 直接保险（包括共同保险）：(i) 人寿保险，(ii) 非人寿保险；
(b) 再保险和转分保；(c) 保险中介，如经纪和代理；(d) 保险辅助服务，如咨询、精算、风险评估和理赔服务。

银行和其他金融服务（不包括保险）

- (e) 接受存款和其他公众可偿还资金；(f) 各类贷款，包括消费信贷、抵押信贷、保理和商业交易融资；(g) 金融租赁；(h) 所有支付和货币传输服务，包括信用卡、签账卡和借记卡、旅行支票及银行汇票；
(i) 担保和承诺；

- (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, futures and options,
 - (iv) exchange rate and interest rate instruments, including products such as swaps and 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;

- (j) 自营交易或为客户账户交易，无论是在交易所、场外市场还是其他场所，涉及以下内容：
- (i) 货币市场工具（包括支票、票据、存款证），(ii) 外汇，(iii) 衍生产品包括期货和期权，(iv) 汇率及利率工具，包括掉期和远期利率协议等产品，(v) 可转让证券，(vi) 其他流通票据及金融资产，包括金银条块，
- (k) 参与各类证券发行，包括承销及代理配售（无论公开或私下）以及提供与此类发行相关的服务；
- (l) 货币经纪；
- (m) 资产管理，如现金或投资组合管理、各类集体投资管理、养老金管理、托管、存管及信托服务；
- (n) 金融资产的结算与清算服务，包括证券、衍生产品及其他流通票据；

- (o) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and
- (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;

investment means “investment” as defined in Article 847 (Investment - Definitions), except that, with respect to “loans” and “debt securities” referred to in that Article:

- (a) a loan to or debt security issued by a financial institution is an investment only where it is treated as regulatory capital by the Party in whose territory the financial institution is located; and
- (b) a loan granted by or debt security owned by a financial institution, other than a loan to or debt security of a financial institution referred to in subparagraph (a), is not an investment;

for greater certainty:

- (c) a loan to, or debt security issued by, a Party or a state enterprise thereof is not an investment; and
- (d) a loan granted by or debt security owned by a cross-border financial service supplier, other than a loan to or debt security issued by a financial institution, is an investment if such loan or debt security meets the criteria for investments set out in Article 847 (Investment - Definitions);

(o) 其他金融服务供应商提供的金融信息的提供和传输，以及金融数据处理和相关软件；

(p) 就第(e)至(o)项所列所有活动提供的咨询、中介及其他辅助金融服务，包括信用参考和分析、投资及组合研究与建议、收购建议以及公司重组和战略建议；

金融服务供应商 缔约方的指在该缔约方的领土内从事提供金融服务的业务的缔约方的个人；

投资指第847条（投资-定义）中定义的“投资”，但就该条所述的“贷款”和“债务证券”而言：

(a) 向金融机构发放的贷款或由其发行的债务证券， 仅在该金融机构所在领土的缔约方将其视为监管资本时， 方构成投资； 及

(b) 金融机构发放的贷款或拥有的债务证券， 不包括第(a)项所述的向金融机构发放的贷款或金融机构的债务证券， 不构成投资；

为进一步明确：

(c) 向缔约方或其国有企业提供的贷款或由其发行的债务证券不构成投资； 且

(d) 由跨境金融服务供应商发放的贷款或持有的债务证券（向金融机构发放的贷款或由金融机构发行的债务证券除外）， 若该贷款或债务证券符合第847条（投资-定义）规定的投资标准， 则构成投资；

investor of a Party means “investor of a Party” as defined in Article 847 (Investment - Definitions);

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 105 (Initial Provisions and General Definitions - Definitions of General Application) 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; for greater certainty, a public entity shall not be considered a designated monopoly or a state enterprise for the purposes of Chapter Thirteen (Competition Policy, Monopolies and State Enterprises); and

self-regulatory organization means any non-governmental body, including any securities or futures exchange or market, clearing agency, other organization or association, that exercises its own or delegated regulatory or supervisory authority over financial service suppliers or financial institutions; for greater certainty, a self-regulatory organization shall not be considered a designated monopoly for purposes of Chapter Thirteen (Competition Policy, Monopolies and State Enterprises).

缔约方的投资者系指第847条（投资-定义）所定义的“缔约方的投资者”；

新金融服务 指未在缔约方领土内提供、但在另一方领土内提供的金融服务，包括未在缔约方领土内销售的金融产品的任何新的交付形式或销售方式；

缔约方的个人系指第105条（初始条款和一般定义——一般适用的定义）所定义的“缔约方的个人”，且为明确起见，不包括非缔约方企业的分支机构；

公共实体系指缔约方的中央银行或货币当局，或由缔约方拥有或控制的任何金融机构；为明确起见，就第十三章（竞争政策、垄断和国有企业）而言，公共实体不应被视为指定垄断或国有企业；且

自律组织 指任何非政府机构，包括任何证券或期货交易所或市场、清算机构、其他组织或协会，其对金融服务供应商或金融机构行使自身或委托的监管或监督权力；为更加明确起见，就第十三章（竞争政策、垄断和国有企业）而言，自律组织不应被视为指定垄断。

Annex 1101.3(a)

Understanding Concerning Subparagraph 3(a) of Article 1101

1. Nothing in this Chapter shall be construed to prevent a Party, including its public entities, from exclusively conducting or supplying in its territory the activities and services described in subparagraph 3(a) of Article 1101. Further, nothing in this Chapter shall be construed to prevent a Party from adopting or maintaining measures relating to those contributions with respect to which such activities or services are exclusively conducted or supplied.
2. For greater certainty, with respect to the activities or services referred to in subparagraph 3(a) of Article 1101, it shall not be inconsistent with this Chapter for a Party to:
- (a) designate, formally or in effect, a monopoly, including a financial institution, to conduct or supply some or all activities or services;
 - (b) permit or require participants to place all or part of their relevant contributions under the management of an entity other than the government, a public entity, or a designated monopoly;
 - (c) preclude, whether permanently or temporarily, some or all participants from choosing to have certain activities or services conducted or supplied by an entity other than the government, a public entity, or a designated monopoly; and

附件1101.3(a)

关于第1101条第3款(a)项的理解

1. 本章的任何规定不得解释为阻止缔约方（包括其公共实体）在其领土内独家经营或提供第1101条第3款(a)项所述的活动和服务。此外，本章的任何规定不得解释为阻止缔约方采取或维持与这些活动或服务独家经营或提供相关的缴款措施。
2. 为进一步明确，就第1101条第3款(a)项所述活动或服务而言，缔约方采取以下措施不应被视为与本章不一致：
- (a) 正式或实际指定一家垄断实体（包括金融机构）来经营或提供部分或全部活动或服务；
 - (b) 允许或要求参与者将其全部或部分相关缴款交由政府、公共实体或指定垄断实体以外的实体管理；
 - (c) 永久或暂时阻止部分或全部参与者选择由政府、公共实体或指定垄断以外的实体经营或提供某些活动或服务；以及

(d) require that some or all activities or services be conducted or supplied by financial institutions located within the Party’s territory. Such activities or services may include the management of some or all contributions or the provision of annuities or other withdrawal (distribution) options using certain contributions.

3. For purposes of this Annex, “contribution” means an amount paid by or on behalf of an individual with respect to, or otherwise subject to, a plan or system described in subparagraph 3(a) of Article 1101.

(d) 要求部分或全部活动或服务由位于缔约方领土内的金融机构经营或提供。此类活动或服务可包括管理部分或全部缴款，或使用某些缴款提供年金或其他提取（分配）选项。

3. 就本附件而言，“缴款”系指由个人或其代表就第1101条第3款(a)项所述计划或系统支付或以其他方式与之相关的金额。

Annex 1101.5

Understanding Regarding Financial Services Measures

1. Nothing in Article 1106 prohibits a Party from requiring the issuance of a decree, resolution, or regulation by the executive branch, regulatory agencies, or central bank, in order to authorize new financial services not specifically authorized in its law.
2. With respect to cross-border trade in financial services, and without prejudice to other means of prudential regulation, a Party may require the authorization of cross-border financial service suppliers of the other Party and of financial instruments.
3. A Party may apply solvency and integrity requirements to branches of insurance companies of the other Party established in its territory, including measures requiring that capital assigned to a branch and technical reserves be effectively brought into the Party's territory and converted into local currency, in accordance with the Party's law.

附件1101.5

关于金融服务措施的谅解

1. 第1106条不禁止缔约方要求行政部门、监管机构或中央银行颁布法令、决议或监管规定，以授权法律未明确授权的新金融服务。
2. 关于跨境金融服务贸易，且在不影响其他审慎监管手段的前提下，一缔约方可要求对另一缔约方的跨境金融服务供应商及金融工具进行授权。
3. 缔约方可对在其领土内设立的另一缔约方保险公司分支机构适用偿付能力和诚信要求，包括根据缔约方法律要求分配给分支机构的资本和技术准备金须实际转入缔约方领土并兑换为本地货币的措施。

Annex 1105

Cross-Border Trade

Canada

Insurance and Insurance-Related Services

1. Paragraph 1 of Article 1105 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 1118, 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 deriving therefrom, and
 - (ii) goods in international transit; and
- (b) reinsurance and retrocession, services auxiliary to insurance as described in subparagraph (d) of the definition of financial service, and insurance intermediation such as brokerage and agency as described in subparagraph (c) of the definition of financial service.

附件1105

跨境贸易

加拿大

保险及与保险相关的服务

1. 第1105条第1款适用于金融服务的跨境提供或交易，如第1118条中金融服务跨境提供定义的第(a)项所述，涉及：

- (a) 与以下内容相关的风险保险：
 - (i) 海上运输、商业航空、太空发射及货物运输（包括卫星），此类保险可涵盖以下一项或多项：被运输的货物、运输货物的工具以及由此产生的任何责任，且
 - (ii) 国际运输中的货物；以及
- (b) 再保险和转分保、金融服务定义(d)项所述的保险辅助服务，以及金融服务定义(c)项所述的保险中介（如经纪和代理）。

2. Canada’s commitments on cross-border insurance and insurance-related services apply only where the activities of a Peruvian entity are not subject to the *Insurance Companies Act*, 1991, c. 47 (that is, the Peruvian entity is not in itself or through an agent insuring in Canada a risk).

Banking and Other Financial Services (excluding insurance)

3. Paragraph 1 of Article 1105 applies to the cross-border supply of or trade in financial services, as defined in subparagraphs (a) of the definition of cross-border supply of financial services in Article 1118, with respect to:

- (a) the provision and transfer of financial information and financial data processing as described in subparagraph (o) of the definition of financial service; and
- (b) advisory and other auxiliary financial services, and credit reference and analysis, excluding intermediation, relating to banking and other financial services as described in subparagraph (p) of the definition of financial service.

4. Canada’s commitments on cross-border trade of banking and other financial services (excluding insurance) are made on the basis that neither the foreign bank nor one of its affiliates, if subject to the *Bank Act*, 1991, c. 46, maintains a financial establishment in Canada.

2. 加拿大对跨境保险及与保险相关的服务的承诺仅适用于秘鲁实体的活动不受《保险公司法》（1991年，第47章）约束的情况（即秘鲁实体本身或通过代理未在加拿大承保风险）。

银行和其他金融服务（不包括保险）

3. 第1105条第1款适用于金融服务的跨境提供或交易，如第1118条中金融服务的跨境提供定义的第(a)项所述，涉及：

- (a) 金融信息的提供和传输及金融数据处理，如金融服务定义的第(o)项所述；以及
- (b) 咨询和其他辅助金融服务，以及信用参考和分析，不包括中介，涉及银行及其他金融服务，如金融服务定义的第(p)项所述。

4. 加拿大关于银行及其他金融服务（不包括保险）跨境贸易的承诺是基于以下条件作出的：外国银行或其任何一家附属机构（如受1991年《银行法》c. 46约束）均未在加拿大设立金融机构。

Peru

Insurance and insurance-related services

1. Paragraph 1 of Article 1105 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 1118 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) consultancy, actuarial, risk assessment and claim settlement services;
- (d) insurance intermediation, such as agency and brokerage, as referred to in subparagraph (c) of the definition of financial service in Article 1118, of insurance of risks related to those items listed in subparagraphs (a) and (b).

2. Paragraph 1 of Article 1105 applies with respect to the cross-border supply of or trade in financial services as defined in paragraph (c) of the definition of cross-border supply of financial services in Article 1118 with respect to services listed in paragraph 1.

Peru

保险及与保险相关的服务

1. 第1105条第1款适用于第1118条中定义的金融服务的跨境提供或交易，具体涉及以下方面：

- (a) 与以下内容相关的风险保险：
 - (i) 海上运输、商业航空、太空发射及货物运输（包括卫星），此类保险可涵盖以下任何或全部内容：被运输的货物、运输货物的工具以及由此产生的任何责任；以及
 - (ii) 国际运输中的货物；(b) 再保险和转分保；(c) 咨询、精算、风险评估和理赔服务；(d) 保险中介，如第1118条中金融服务定义第(c)项所述的代理和经纪，涉及第(a)和(b)项所列项目的风险保险。

2. 第1105条第1款适用于第1118条中定义的金融服务的跨境提供或交易，涉及第1款所列服务。

3. Peru’s commitment in paragraphs 1 and 2 with regard to the supply and intermediation of insurance of risks listed in subparagraph 1(a) of this Annex shall become effective two years after the entry into force of this Agreement or when Peru has adopted and implemented the necessary modifications to its relevant legislation, whichever occurs first.

Banking and other financial services (excluding insurance)

4. Paragraph 1 of Article 1105 applies only 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 1118,² subject to prior authorization from the relevant regulator, as required, and advisory and other auxiliary financial services,³ excluding intermediation, relating to banking and other financial services as referred to in subparagraph (p) of the definition of financial service in Article 1118.⁴

² Where the financial information or financial data processing referred to in this paragraph involves personal data, the treatment of such personal data shall be in accordance with Peru’s law regulating the protection of such data.

³ Advisory and other auxiliary financial services do not include those services referred to in subparagraphs (e) through (o) of the definition of financial service in Article 1118.

⁴ A trading platform, whether electronic or physical, does not fall within the range of services specified in this paragraph.

3. 秘鲁在第1和第2段中关于本附件第1(a)项所列风险保险的供应和中介的承诺，应在本协定生效两年后或秘鲁通过并实施其相关立法的必要修改时（以先发生者为准）生效。

银行和其他金融服务（不包括保险）

4. 第1105条第1款仅适用于第1118,² 条金融服务定义第(o)项所指的金融信息的提供和传输、金融数据处理及相关软件（需根据要求获得相关监管机构的事先授权），以及第1118条金融服务定义第(p)项所指的银行及其他金融服务相关的咨询和其他辅助金融服务³（不包括中介）。⁴

² 若本段所述金融信息或金融数据处理涉及个人数据，则此类个人数据的处理应符合秘鲁法律中关于此类数据保护的规定。³ 咨询和其他辅助金融服务不包括第1118条金融服务定义中第(e)至(o)项所述的服务。⁴ 交易平台，无论是电子或实体，均不属于本段规定的服务范围内

本段所述。 d

Annex 1111

Transparency

1. The Parties recognize that the implementation by Peru of the obligations referred to in paragraphs 3 and 8 of Article 1111 may require legislative and regulatory changes, including the establishment of systems and procedures for compliance with such obligations.
2. Peru shall implement the obligations specified in paragraph 1 not later than 18 months after the date of entry into force of this Agreement, or at such time as the equivalent obligations contained in paragraphs 3 and 11 of Article 12.11 of the *United States - Peru Trade Promotion Agreement*, done in Washington on 12 April 2006, are implemented, whichever occurs first.

附件1111

透明度

1. 双方认识到，秘鲁履行第1111条第3款和第8款所述义务可能需要立法和监管变更，包括建立履行此类义务的系统 and 程序。
2. 秘鲁应在不迟于本协定生效后18个月内履行第1款规定的义务，或在2006年4月12日于华盛顿签署的美国-秘鲁贸易促进协定第12.11条第3款和第11款所含同等义务得到履行之时（以先发生者为准）履行上述义务。

Annex 1114

Authorities Responsible for Financial Services

The authority of each Party responsible for financial services shall be:

- (a) for Canada, the Department of Finance of Canada; and
- (b) for Peru, the Ministry of Economy and Finance, in coordination with financial regulators.

附件1114

负责金融服务的当局

各缔约方负责金融服务的主管机构应为：

- (a) 对于加拿大，加拿大财政部；以及 (b) 对于秘鲁，经济和财政部，与金融监管机构协调。