Chapter 12
Financial Services

Article 12.1: Definitions

For the purposes of this Chapter:

(a) **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;

(b) **cross-border trade in financial services** or **cross-border supply of financial services** means the supply of a financial service:

(i) from the territory of one Party into the territory of the other Party;

(ii) in the territory of a Party by a person of that Party to a person of the other Party; or

(iii) 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;

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

(d) **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;

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

Insurance and insurance-related services

(i) direct insurance (including co-insurance):

(A) life;

(B) non-life;

(ii) reinsurance and retrocession;

章节 12 金融服
务业

第 12.1 条：定义

本章的目的如下：

(a) 一方缔约方的跨境金融服务提供者是指一方在其领土内从事提供金融服务业务，并寻求通过跨境供应此类服务来提供或提供金融服务的人士；

(b) 跨境金融服务贸易或跨境金融服务供应是指提供金融服务：

(i) 从一方领土进入另一方领土； (ii) 在一方领土内由该方人员向另一方人员提供服务；或 (iii) 由一方国民在另一方领土内提供服务；

但不包括在一方领土内由在该领土的投资提供的服务；

(c) 金融机构是指任何被授权从事业务并在其所在地领土法律下作为金融机构进行监管或监督的金融中介或其他企业；

(d) 另一方金融机构是指位于一方领土内并由另一方人员控制的金融机构，包括分支机构；

(e) 金融服务是指任何具有金融性质的服务。金融服务包括所有保险和与保险相关的服务，以及所有银行及其他金融服务（不包括保险），以及与具有金融性质的服务相关或辅助的服务。金融服务包括以下活动：

保险和与保险相关的服务

(i) 直接保险（包括共同保险）：(A) 人寿保险；(B) 非人寿保险；(ii) 再保险和分保；

(iii) insurance intermediation, such as brokerage and agency;

(iv) service auxiliary to insurance, such as consultancy, actuarial, risk assessment, and claim settlement services;

Banking and other financial services (excluding insurance)

(v) acceptance of deposits and other repayable funds from the public;

(vi) lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transactions;

(vii) financial leasing;

(viii) all payment and money transmission services, including credit, charge and debit cards, travellers cheques, and bankers drafts;

(ix) guarantees and commitments;

(x) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market, or otherwise, the following:

(A) money market instruments (including cheques, bills, certificates of deposits);

(B) foreign exchange;

(C) derivative products including, futures and options;

(D) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;

(E) transferable securities;

(F) other negotiable instruments and financial assets, including bullion;

(xi) 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;

(xii) money broking;

(xiii) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository, and trust services;

(xiv) settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;

(iii) 保险中介，如经纪和代理；(iv) 保险辅助服务，如咨询、精算、风险评估和理赔服务；

银行及其他金融服务（不包括保险）

(v) 存款接受及其他可偿还资金； (vi) 所有类型贷款，包括消费者信用、抵押贷款、保理及商业交易融资； (vii) 金融租赁； (viii) 所有支付和资金传输服务，包括信用卡、借记卡、旅行支票和银行汇票； (ix) 担保和承诺； (x) 为自己账户或客户账户交易，无论在交易所、场外交易市场或其他方式，包括： (A) 货币市场工具（包括支票、票据、存款证明）； (B) 外汇； (C) 衍生产品，包括期货和期权； (D) 汇率和利率工具，包括互换、远期利率协议等产品； (E) 可转让证券； (F) 其他可转让票据和金融资产，包括贵金属；

(xi) 参与各种证券发行，包括作为代理人进行的承保和承销（无论公开或私下）以及与发行相关的服务；

(十二) 资金中介；(十三) 资产管理，如现金或投资组合管理、所有形式的集合投资管理、养老金管理、托管、保管和信托服务；(十四) 金融资产的结算和清算服务，包括证券、衍生产品和其他可转让票据；

(xv) provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;

(xvi) advisory, intermediation, and other auxiliary financial services on all the activities listed in subparagraphs (v) to (xv), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;

(f) **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;

(g) **investment** means "investment" as defined in Article 10.1(j) (Definitions – Investment Chapter), except that, with respect to "loans" and "debt instruments" referred to in that Article:

(i) a loan to or debt instrument 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

(ii) a loan granted by or debt instrument owned by a financial institution, other than a loan to or debt instrument of a financial institution referred to in subparagraph (i), is not an investment;

for greater certainty:

(iii) a loan to, or debt instrument issued by, a Party or a state enterprise is not an investment; and

(iv) a loan granted by or debt instrument owned by a cross-border financial service supplier, other than a loan to or debt instrument issued by a financial institution, is an investment if such loan or debt instrument meets the criteria for investments set out in Article 10.1(j) (Definitions – Investment Chapter);

(h) **investor of a Party** means an "investor of a Party" as defined in Article 2.1(o) (Definitions of General Application – General Definitions Chapter);

(i) **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;

(j) **person of a Party** means "person of a Party" as defined in Article 2.1(t) (Definitions of General Application – General Definitions Chapter) and, for greater certainty, does not include a branch of an enterprise of a non-Party;

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

(十五) 金融信息的提供和转让，以及金融数据
由其他金融服务供应商提供的处理和相关软件；(xvi) 对子句(v)至(xv)中列出的所有活动提供的咨询、中介和其他辅助金融服务，包括信用参考和分析、投资和投资组合研究及建议、收购建议以及公司重组和战略建议；

(f) 一方金融服务供应商是指一方人士，该人士
在 该方领土内从事提供金融服务业务的；

(g) 投资是指第10.1(j)条（定义——投资章节）中定义的“投资”，但就该条中提到的“贷款”和“债务工具”而言：
投资章节），但就该条中提到的“贷款”和“债务工具”而言：

(i) 金融机构提供或发行的贷款或债务工具是一种
在金融机构所在地的一方将其视为监管资本的投资；以及（ii）金融机构提供的贷款或拥有的债务工具，除（i）中所提及的金融机构贷款或债务工具外，均不属于投资；

为明确起见：(iii) 一方或国有企业提供的贷款或发行的债务工具是

并非投资；并且（iv）由跨境金融服务提供者提供或拥有的贷款，或除金融机构提供的贷款或发行的债务工具之外的债务工具，如果该贷款或债务工具符合第10.1(j)条（定义——投资章节）中规定的投资标准，则属于投资；

(h) 一方投资者指根据第2.1(o)条定义的“一方投资者”
（一般应用定义——一般定义章节）

(i) 新金融服务是指一方未提供的金融服务
和，对于更明确的规定，不包括非一方的企业分支机构；

(j) 一方人士是指第2.1(t)条中定义的“一方人士”；
(一般应用定义——一般定义章节) 和，为了更明确，不包括非一方的企业分支机构；

(k) 公共实体是指一方的中央银行或货币当局，或任何
一方拥有或控制的金融机构；以及

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

Article 12.2: 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. Articles 9.10 (Denial of Benefits – Cross-Border Trade in Services Chapter), 10.10 (Transfers – Investment Chapter), 10.11 (Expropriation and Compensation – Investment Chapter), 10.12 (Special Formalities and Information Requirements – Investment Chapter) and 10.13 (Denial of Benefits – Investment Chapter) are hereby incorporated into and made a part of this Chapter *mutatis mutandis*[12-1]. Section B of Chapter 10 (Investment) is hereby incorporated into and made a part of this Chapter solely for breaches by a Party of Articles 10.10 to 10.13, as incorporated in this Chapter. No other provision of Chapter 9 (Cross-Border Trade in Services) or Chapter 10 (Investment) shall apply to a measure described in paragraph 1.

3. This Chapter does not apply to measures adopted or maintained by a Party relating to:

(a) activities or services forming part of a public retirement plan or statutory system of social security; or

(b) activities or services conducted for the account or with the guarantee or using the financial resources of the Party, including its public entities;

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

Article 12.3: 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

[12-1]The Parties understand that the provisions of Chapter 10 (Investment) hereby incorporated include, are subject to and shall be interpreted in conformity with Annexes 10-A to 10-F of that Chapter, as applicable.

(l) 自律组织是指任何非政府机构，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，该机构对其金融服务供应商或金融机构行使自身或授权的监管或监督权力。

第12.2条：范围和覆盖

1. 本章适用于一方采取或维持的与以下措施有关的措施：

(a) 另一方的金融机构；(b) 另一方的投资者以及此类投资者的在另一方领土内的金融机构中的投资；以及 (c) 跨境金融服务贸易。

2. 第9.10条（拒绝利益——跨境服务贸易章节）、第10.10条（转移——投资章节）、第10.11条（征收和补偿——投资章节）、第10.12条（特殊程序和信息要求——投资章节）和第10.13条（拒绝利益——投资章节）根据需要并入本章并成为本章的一部分[12-1]

. 第10章（投资）B节现被纳入本章节，并成为本章节的一部分，仅适用于一方违反本章节中纳入的第10.10至10.13条。第9章（跨境贸易服务）或第10章（投资）的任何其他规定均不适用于第1段所述的措施。

3. 本章不适用于一方采取或维持的与以下措施有关的措施：

(a) 构成公共退休计划或法定社会保障制度一部分的活动或服务；或 (b) 为一方账户、以一方担保或使用一方财务资源的活动或服务，包括其公共实体；

但若一方允许第（a）款或第（b）款所述的任何活动或服务由其金融机构在与公共实体或金融机构竞争的情况下进行，则本章适用。

第12.3条：国民待遇

1. 每一方应给予另一方的投资者不低于其给予自身投资者的待遇，在同等情况下，就设立、收购、扩张、管理、经营、运营和

[12-1]缔约方理解，第10章（投资）的规定，据此纳入本协议包括，受其约束，并应与该章节第10-A至10-F附件的规定相符，如适用。

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 Article 12.6.1, 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.

Article 12.4: Most-Favoured-Nation Treatment

Each Party shall accord to investors of the other Party, financial institutions of the other Party, investments of investors 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.

Article 12.5: Market Access for Financial Institutions

A Party shall not adopt or maintain, with respect to investors of the other Party, either on the basis of a regional subdivision or on the basis of its entire territory, measures that:

(a) impose limitations:

(i) on the number of financial institutions, whether in the form of numerical quotas, monopolies, exclusive service suppliers, or the requirement of an economic needs test;

(ii) on the total value of financial service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

(iii) on the total number of financial service operations or on the total quantity of financial services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test; [12-2] or

[12-2]This subparagraph does not cover measures of a Party which limit inputs for the supply of financial services.

其领土内金融机构的出售或其他处置，以及金融机构投资。

2. 每一方应根据其自身的金融机构和在其金融机构中的本国投资者的投资，给予另一方的金融机构和在其金融机构中的另一方的投资者的投资不低于其给予其自身金融机构和在其金融机构中的本国投资者的投资的待遇，并在类似情况下，给予其自身投资者在其金融机构中的投资不低于其给予另一方的投资者的投资的待遇。

3. 为了履行第12.6.1条中的国民待遇义务，每一方应根据其自身的金融服务供应商给予另一方的跨境金融服务供应商不低于其给予其自身金融服务供应商的待遇，并在类似情况下，在提供相关服务方面给予其自身的投资者在其金融机构中的投资不低于其给予非一方投资者的投资的待遇。

第12.4条：最惠国待遇

每一方应根据其给予非一方的投资者、金融机构、在其金融机构中的投资者的投资和跨境金融服务供应商的待遇，给予另一方的投资者、金融机构、在其金融机构中的投资者的投资和跨境金融服务供应商不低于其给予非一方的投资者、金融机构、在其金融机构中的投资者的投资和跨境金融服务供应商的待遇，并在类似情况下。

文章 12.5：金融机构市场准入

一方不得针对另一方的投资者，无论是在区域划分的基础上还是在其整个领土上，采取下列措施：

(a) 实施限制：

(i) 关于金融机构的数量，无论以数量配额、垄断、独家服务提供者形式，还是经济需要测试的要求；(ii) 关于金融服务交易或资产的总价值，无论以数量配额形式或经济需要测试的要求；(iii) 关于金融服务操作的总数量，或以指定数量单位表达的金融服务产出总数量，无论以配额形式或经济需要测试的要求；[12-2]

or

[12-2]本段不涵盖限制金融服务供应投入的一方措施。

(iv) on the total number of natural persons that may be employed in a particular financial service sector or that a financial institution may employ and who are necessary for, and directly related to, the supply of a specific financial service in the form of numerical quotas or the requirement of an economic needs test; or

(b) restrict or require specific types of legal entity or joint venture through which a financial institution may supply a service.

Article 12.6: 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 12-A.

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 as long as such definitions are not inconsistent with the obligations 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.

Article 12.7: New Financial Services[12-3]

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 a new law or modify an existing law.

2. Notwithstanding Article 12.5(b), a Party may determine the institutional and juridical form through which the new financial service may be supplied and may require authorisation for the supply of the service. Where a Party requires authorisation to supply a new financial service, the decision shall be made within a reasonable time and authorisation may only be refused for prudential reasons.

[12-3] For greater certainty, a Party may, consistent with Article 12.3, prohibit a particular new financial service.

(iv) 关于特定金融服务领域可能雇用的自然人总数，或金融机构可能雇用且对提供特定金融服务必要且直接相关的自然人数，无论以数量配额形式或经济需要测试的要求；或

(b) 限制或要求金融机构通过特定的法律实体或合资企业来提供服务。

第12.6条：跨境贸易

1. 每一方应根据给予国民待遇的条件，允许另一方的跨境金融服务提供者提供附件12-A中规定的金融服务。

2. 每一方应允许其领土内的人员及其国民（无论位于何处）从位于另一方领土内的另一方的跨境金融服务提供者购买金融服务。这项义务不要求一方允许此类提供者在其领土内开展业务或招揽。每一方可以为本条之目的定义“开展业务”和“招揽”，只要这些定义与第1段的规定不一致。

3. 在不妨碍对跨境金融服务贸易进行其他审慎监管的情况下，一方可以要求另一方的跨境金融服务提供者和金融工具的注册。

文章 12.7：新金融服务[12-3]

每一方应允许另一方的金融机构，在根据需要向相关监管机构提出请求或通知时，提供任何新金融服务，前提是该方在其国内法下允许其自身的金融机构在类似情况下提供该金融服务，且金融服务的引入不需要该方制定新法律或修改现有法律。

2. 不论第12.5(b)条如何规定，一方可以确定新金融服务可以提供的机构和法律形式，并可以要求提供服务授权。如果一方要求提供新金融服务的授权，该决定应在合理时间内作出，且仅可因审慎理由拒绝授权。

为确保，一方可依据第12.3条，禁止特定的新金融服务。

Article 12.8: 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

(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 12.9: Senior Management and Boards of Directors

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

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

Article 12.10: Non-Conforming Measures

1. Articles 12.3, 12.4, 12.5, 12.6 and 12.9 do not apply to:

(a) any existing non-conforming measure that is maintained by a Party at:

(i) the central level of government, as set out by that Party in Section 1 of its Schedule to Annex III of non-conforming measures;

(ii) a regional level of government, as set out by that Party in Section 1 of its Schedule to Annex III of non-conforming measures; or

(iii) a local level of government.

(b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or

(c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed:

(i) immediately before the amendment, with Articles 12.3, 12.4 and 12.9; or

第12.8条：某些信息的处理

本章中的任何内容均不要求一方提供或允许访问：

(a) 与金融机构或跨境金融服务提供者的个别客户财务事务和账目相关的信息；或 (b) 任何机密信息，其披露将妨碍执法或否则与公共利益相悖或损害特定企业的合法商业利益。

第12.9条：高级管理人员和董事会

1. 任何一方不得要求另一方金融机构雇佣任何特定国籍的个人担任高级管理人员或其他关键人员。

2. 任何一方不得要求另一方金融机构的董事会中，超过少数成员为该方国民、居住在该方领土的人员或两者的组合。

第12.10条：不符合规定的措施

1. 第12.3条、第12.4条、第12.5条、第12.6条和第12.9条不适用于：

(a) 任何一方在处维持的现有的不符合规定的措施 ：

(i) 中央政府层面，如该方在附件III的非符合规定的措施附件第1部分中规定的那样； (ii) 地区政府层面，如该方在附件III的非符合规定的措施附件第1部分中规定的那样；或 (iii) 地方政府层面。 (b) 继续或迅速更新子项 (a) 中提到的任何非符合规定的措施；或 (c) 对子项 (a) 中提到的任何非符合规定的措施的修订，只要该修订不降低该措施与第12.3条、第12.4条和第12.9条的符合性，即： (i) 在修订立即之前，与第12.5条和第12.6条。

(ii) on the date of entry into force of the Agreement, with Articles 12.5 and 12.6.

2. Articles 12.3 to 12.6 and Article 12.9 do not apply to any non-conforming measure that a Party adopts or maintains with respect to sectors, sub-sectors, or activities, in accordance with Section 2 of its Schedule to Annex III of non-conforming measures.

3. Annex 12-B sets out certain specific commitments by each Party.

4. Where a Party has set out a non-conforming measure to Articles 9.3 (National Treatment – Cross-Border-Trade in Services Chapter), 9.4 (Most-Favoured-Nation Treatment – Cross-Border Trade in Services Chapter), 9.5 (Market Access – Cross-Border Trade in Services Chapter), 10.3 (National Treatment – Investment Chapter), 10.4 (Most-Favoured-Nation Treatment – Investment Chapter), or 10.8 (Senior Management and Boards of Directors – Investment Chapter) in its Schedule to Annex I or Annex II, the non-conforming measure shall be deemed to constitute a non-conforming measure to Articles 12.3, 12.4, 12.5, 12.6 or 12.9, as the case may be, to the extent that the measure, sector, sub-sector or activity set out in the non-conforming measure is covered by this Chapter.

Article 12.11: Exceptions

1. Nothing in this Chapter or Chapter 9 (Cross-Border Trade in Services), Chapter 10 (Investment), Chapter 11 (Telecommunications), including specifically Article 11.2.2 (Scope and Coverage – Telecommunications Chapter), Chapter 14 (Competition Policy) or Chapter 16 (Electronic Commerce) of this Agreement shall prevent a Party from adopting or maintaining measures for prudential reasons [12-4], including for the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed by a financial institution or cross-border financial service supplier, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of this Agreement referred to in this paragraph, they shall not be used as a means of avoiding the Party's obligations under such provisions.[12-5]

2. Nothing in this Chapter or, Chapter 9 (Cross-Border Trade in Services), Chapter 10 (Investment), Chapter 11 (Telecommunications), including specifically Article 11.2.2 (Scope and Coverage – Telecommunications Chapter), Chapter 14 (Competition Policy) or Chapter 16 (Electronic Commerce) of this Agreement applies to non-discriminatory measures of general application taken by any public entity in pursuit of monetary and related credit policies or exchange rate policies. This paragraph shall not affect a Party's obligations under Article 10.7 (Performance

[12-4] It is understood that the term "prudential reasons" includes the maintenance of the safety, soundness, integrity, or financial responsibility of individual financial institutions or cross-border financial service suppliers.
[12-5] The Parties understand that a Party may take measures for prudential reasons through regulatory or administrative authorities, such as ministries or departments of labour, in addition to those who have regulatory responsibilities with respect to financial institutions.

(ii) 在协定生效之日，与第12.5条和第12.6条。

2. 第12.3条至第12.6条和第12.9条不适用于任何一方根据其附件III第2条关于不符合规定的措施所采纳或维持的针对部门、子部门或活动的任何不符合规定的措施。

3. 附件12-B列出了每一方的一定具体承诺。

4. 如果一方在其附件I或附件II的附件中列出了针对第9.3条（国民待遇——跨境贸易服务章节）、第9.4条（最惠国待遇——跨境贸易服务章节）、第9.5条（市场准入——跨境贸易服务章节）、第10.3条（国民待遇——投资章节）、第10.4条（最惠国待遇——投资章节）或第10.8条（高级管理人员和董事会——投资章节）的不符合规定的措施，则该不符合规定的措施应被视为构成第12.3条、第12.4条、第12.5条、第12.6条或第12.9条（视情况而定）的不符合规定的措施，前提是该措施、部门、子部门或活动在不符合规定的措施中列出，并且由本章涵盖。

第12.11条：例外

1. 本章或第9章（跨境贸易服务）、第10章（投资）、第11章（电信），包括特别指第11.2.2条（范围和覆盖——电信章节）、第14章（竞争政策）或第16章（电子商务）的协定任何条款均不得阻止一方出于审慎理由 [12-4] 采取或维持措施，包括为保护投资者、存款人、保单持有人或受金融机构或跨境金融服务提供者信义义务约束的人，或为确保金融体系的完整性和稳定性。当此类措施与本协定在本段中提及的条款不符时，不得将其作为规避该协定条款项下义务的手段。[12-5]

2. 本章或第9章（跨境贸易服务）、第10章（投资）、第11章（电信），包括特别指第11.2.2条（范围和覆盖——电信章节）、第14章（竞争政策）或第16章（电子商务）的协定中的任何条款，均不适用于任何公共实体为实现货币和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。本段不影响一方在第10.7条（业绩——投资章节）下关于第10章（投资）所涵盖措施的义务，或在第10.10条（转移——投资章节）下的义务。

[12-4] 各方理解，"审慎理由"一词包括维持单个金融机构或跨境金融服务提供者的安全、稳健、完整或财务责任。[12-5] 各方理解，一方可通过监管或行政机关，如劳动部或劳动部门，为审慎理由采取措施，除对金融机构具有监管职责者外。

Requirements – Investment Chapter) with respect to measures covered by Chapter 10 (Investment), or under Article 10.10 (Transfers – Investment Chapter).

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

4. For greater certainty, nothing in this Chapter shall be construed to prevent the adoption or enforcement by a Party of measures necessary to secure compliance with laws or regulations that are not inconsistent with this Chapter, including those relating to the prevention of deceptive and fraudulent practices or to deal with the effects of a default on financial services contracts, subject to the requirement that such measures are not applied in a manner which 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 12.12: Recognition

1. A Party may recognise prudential measures of a non-Party in the application of measures covered by this Chapter. Such recognition may be:

(a) accorded autonomously;

(b) achieved through harmonisation or other means; or

(c) based upon an agreement or arrangement with the non-Party.

2. A Party according recognition of prudential measures under paragraph 1 shall provide adequate opportunity to the other Party to demonstrate that circumstances exist in which there are or would be equivalent regulation, oversight, implementation of regulation and, if appropriate, procedures concerning the sharing of information between the Parties.

3. Where a Party accords recognition of prudential measures under paragraph 1(c) and the circumstances set out in paragraph 2 exist, the Party shall provide adequate opportunity to the other Party to negotiate accession to the agreement or arrangement, or to negotiate a comparable agreement or arrangement.

Article 12.13: Transparency

1. The Parties recognise that transparent regulations and policies and reasonable, objective and impartial administration governing the activities of financial institutions

要求——投资章节）与第10章（投资）所涵盖的措施有关，或根据第10.10条（转移——投资章节）。

3. 不论第10.10条（转移——投资章节）如何规定，并将其纳入本章，一方可以采取公平、非歧视和善意的措施，防止或限制金融机构或跨境金融服务提供者向其关联公司或与该机构或供应商有关联的个人转移资金，以维护金融机构或跨境金融服务提供者的安全、稳健、完整或财务责任。本段不妨碍本协定中允许一方限制资金转移的任何其他规定。

4. 为进一步明确，本章的任何规定均不得解释为禁止一方采取必要措施以确保遵守与本章不一致的法律或法规，包括防止欺骗和欺诈行为或处理金融服务合同违约后果的措施，前提是这些措施不得以构成任意或不合理的国家间歧视的手段或对受本章涵盖的金融机构或跨境金融服务贸易的投资的伪装限制的方式实施。

文章 12.12：承认

1. 一方可在本章节涵盖的措施适用范围内承认非一方的审慎措施。此种承认可以是：

(a) 自主给予；(b) 通过协调或其他方式实现；或 (c) 基于与非一方达成的协议或安排。

2. 根据第 1 段承认审慎措施的一方，应向另一方提供充分的机会，以证明存在或将会存在等效监管、监管、监管实施以及，如适用，双方之间信息共享程序的情况。

3. 当一方根据第 1 段 (c) 项承认审慎措施且第 2 段所述情况存在时，该方应向另一方提供充分的机会，以谈判加入协议或安排，或谈判达成可比协议或安排。

文章 12.13：透明度

1. 缔约方认识到，透明的法规和政策以及合理、客观和非歧视的管理，对于规范金融机构和金融服务供应商的活动至关重要

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.

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. In lieu of Article 19.3 (Publication – Transparency Chapter), each Party shall, to the extent practicable:

(a) publish in advance any regulations of general application relating to the subject matter of this Chapter that it proposes to adopt; and

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

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

5. On the request of an applicant, a Party's 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. 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 in writing.

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

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

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

和金融服务供应商进入对方市场以及在其市场内运营，都具有重要意义。

2. 各一方应确保适用于本章节的所有一般性措施均以合理、客观和公正的方式管理。

3. 代替第19.3条（公布——透明度章节），每一方应尽其所能：

(a) 预先公布其拟采用的本章节主题相关的一般性法规；以及 (b) 为利益相关方和另一方提供合理的机会对拟议的法规提出意见。

4. 各一方的监管机构应将其完成与金融服务供应相关的申请的要求公之于众，包括任何所需文件。

5. 应申请人的要求，一方的监管机构应告知申请人其申请的状态。如果该机构需要申请人提供更多信息，应在不合理延迟的情况下通知申请人。

6. 监管机构应在投资者向金融机构、金融机构或另一方提供的跨境金融服务供应商提交的完成金融服务供应申请之日起120日内作出行政决定，并及时通知申请人该决定。除非所有相关听证会已举行且所有必要信息已收到，否则申请不应被视为已完成。如120日内无法作出决定，监管机构应在不合理延迟的情况下通知申请人，并应努力在合理时间内作出决定。

7. 如不成功的申请人提出要求，已拒绝申请的监管机构应尽其所能以书面形式通知申请人拒绝申请的原因。

8. 各方应维护或建立适当机制，以回应利益相关方就本章涵盖的一般性措施提出的询问。

9. 各方应确保该方自律组织的规则得到采纳或维护，并及时以使利益相关方能够了解的方式公布或以其他方式提供。

10. 在实际可行的范围内，每一方应允许在最终法规发布和其生效日期之间有合理的时间间隔。

11. At the time it adopts final regulations, a Party should, to the extent practicable, address in writing substantive comments received from interested persons with respect to the proposed regulations.

Article 12.14: Self-Regulatory Organisations

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 organisation to provide a financial service in or into the territory of that Party, the Party shall ensure observance of the obligations of this Chapter by such self-regulatory organisation.

Article 12.15: 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, and 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 12.16: Financial Services Committee

1. The Parties hereby establish a Financial Services Committee.

2. The Committee may meet at the request of either Party to discuss any matter arising under this Agreement that affects financial services.

3. The Committee shall be headed by officials of the authorities specified in Annex 12-C.

Article 12.17: Dispute Settlement

1. Chapter 21 (Dispute Settlement Chapter) applies as modified by this Article to the settlement of disputes arising under this Chapter.

2. A Party may request in writing consultations with the other Party regarding any matter on the implementation, interpretation, application or operation of this Chapter.

3. Consultations under this Article shall be headed by officials of the authorities specified in Annex 12-C.

4. Upon initiation of consultations, the Parties shall provide information and give confidential treatment to the information exchanged in accordance with Article 22.5 (Disclosure of Information – General Provisions and Exceptions Chapter).

11. 在其通过最终法规时，每一方应在不违反实际可行性的前提下，以书面形式回应利益相关方就拟议法规提出的实质性意见。

第12.14条：自律组织

在一方要求另一方的金融机构或跨境金融服务提供者为该方领土内提供金融服务而成为自律组织的成员、参与或获得访问权时，该方应确保该自律组织遵守本章节的义务。

第12.15条：支付和清算系统

根据国民待遇条款，每一方应向在其领土内设立的另一方的金融机构授予访问由公共实体运营的支付和清算系统的权利，以及访问在正常业务过程中可获得的官方融资和再融资设施。本条无意授予访问该方的最后贷款人设施的权利。

第12.16条：金融服务委员会

1. 缔约方 hereby establish a Financial Services Committee.

2. 委员会应任何一方的要求召开会议，讨论本协定下影响金融服务的任何事项。

3. 委员会应由附件12-C中指定的当局官员负责。

Article 12.17: 争端解决

1. Chapter 21 (争端解决章节) applies as modified by this Article to the settlement of disputes arising under this Chapter.

2. 一方可以书面请求另一方就本章节的实施、解释、应用或运营的任何事项进行磋商。

3. 根据本文章进行的磋商应由附件12-C中指定的当局官员主持。

4. 在磋商启动时，缔约方应根据第22.5条（信息披露——总则和例外章节）的规定提供信息，并对交换的信息予以保密。

5. Nothing in this Article shall be construed to require regulatory authorities participating in consultations to disclose information or take any action that would interfere with specific regulatory, supervisory, administrative or enforcement matters.

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

7. Panelists on panels constituted for disputes arising under this Chapter shall meet the requirements set out in Article 21.7 (Compositions of Arbitral Panels – Dispute Settlement Chapter) and shall also have expertise or experience in financial services law or practice, which may include the regulation of financial institutions.

8. Consistent with Article 21.12 (Non-Implementation – Compensation and Suspension of Concessions or other Obligations – Dispute Settlement Chapter), 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 12.18: Investment Disputes in Financial Services

1. Where an investor of one Party submits a claim under Article 10.16 (Submission of a Claim to Arbitration – Investment Chapter) to arbitration under Section B of Chapter 10 (Investment) against the other Party and the respondent invokes Article 12.11, on the request of the respondent, the tribunal shall refer the matter in writing to the Parties for discussions under Article 12.16. Subject to paragraph 4, the tribunal may not proceed pending receipt of a decision or report under this Article.

2. In a referral pursuant to paragraph 1, the Parties shall decide whether reliance on Article 12.11 is justified. The Parties shall transmit a copy of their decision to the tribunal**.** The decision shall be binding on the tribunal.

3. Where the Parties have not decided the issue within 60 days of the receipt of the referral under paragraph 1, either Party may institute dispute settlement proceedings under Article 12.17. The panel shall be constituted in accordance with Article 12.17.

5. 本条中的任何内容均不得解释为要求参与磋商的监管机构披露信息或采取任何可能干扰特定监管、监督、行政或执法事项的行动。

6. 本条中的任何内容均不得解释为要求一方背离其关于金融监管机构之间信息共享的相关法律，或背离缔约方金融当局之间协议或安排的要求。

7. 本章产生的争议所组建的仲裁小组的仲裁员应满足第21.7条（仲裁小组的组成——争议解决章节）中规定的要求，并且还应在金融服务法律或实践方面具有专业知识或经验，这可能包括金融机构监管。

8. 与第21.12条（未实施——补偿或暂停让步或其他义务——争议解决章节）一致，在任何争议中，如果仲裁小组认定一项措施与本协议的义务不一致，并且该措施影响：

(a) 仅限于金融服务部门，投诉方仅可在金融服务部门暂停利益；(b) 金融服务部门及任何其他部门，投诉方可在对等于该措施在缔约方金融服务部门影响的金融服务部门暂停利益；或 (c) 仅限于金融服务部门以外的部门，投诉方不得在金融服务部门暂停利益。

第12.18条：金融服务投资争议

1. 当一方投资者根据第10.16条（向仲裁提交索赔——投资章节）在第10章（投资）B节向另一方和被诉方提交索赔并经被诉方援引第12.11条时，在应被诉方请求，仲裁庭应以书面形式将案件提交给缔约方根据第12.16条进行讨论。除第4段的规定外，仲裁庭不得在收到本条项下的决定或报告前继续审理。

2. 根据第1段的规定进行案件提交时，缔约方应决定是否援引第12.11条是合理的。缔约方应将其决定副本发送给仲裁庭。该决定对仲裁庭具有约束力。

3. 如果缔约方在收到第1段所指的转介后60天内未能决定问题，任何一方均可根据第12.17条启动争端解决程序。小组应根据第12.17条组成。

4. Where no request for dispute settlement proceedings has been made within 10 days of the expiration of the 60 day period referred to in paragraph 3, the tribunal may proceed to decide the matter.

5. Where the parties resolve or seek resolution of the issues through dispute settlement proceedings, the decision of the arbitral panel shall be binding on the tribunal.

4. 如果在第3段所指的60天期限届满后10天内未提出启动争端解决程序的请求，仲裁庭可以继续决定该事项。

5. 当缔约方通过争议解决程序解决或寻求解决争议时，仲裁小组的决定对仲裁庭具有约束力。

Annex 12-A
Cross-Border Trade

Insurance and insurance-related services

1. For Australia, Article 12.6.1 applies to the cross-border supply of or trade in financial services as defined in Article 12.1(b)(i) 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 there from; and

(ii) goods in international transit;

(b) reinsurance and retrocession, and services auxiliary to insurance as referred to in Article 12.1(e)(ii) and (iv); and

(c) insurance intermediation, such as brokerage and agency as referred to in Article 12.1(e)(iii) in relation to the services in subparagraphs (a) and (b).

2. For Chile, Article 12.6.1 applies to the cross-border supply of or trade in financial services as defined in Article 12.1(b)(i) with respect to:

(a) insurance of risk relating to:

(i) international maritime transport and international commercial aviation, with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability deriving there from; and

(ii) goods in international transit;

(b) brokerage of insurance of risks relating to subparagraph (a)(i) and (a)(ii); and

(c) reinsurance and retrocession; reinsurance brokerage; and consultancy, actuarial, and risk assessment.

Banking and other financial services (excluding insurance)

3. For Australia, Article 12.6.1 applies with respect to the provision and transfer of financial information and financial data processing and related software as referred to in Article 12.1(e)(xv), and advisory and other auxiliary services, excluding intermediation, relating to banking and other financial services as referred to in Article 12.1(e)(xvi).

附件12-A 跨境贸易

保险和与保险相关的服务

1. 对于澳大利亚，第12.6.1条适用于第12.1(b)(i)条中定义的跨境供应或贸易金融服务，具体包括：

(a) 与以下风险相关的保险：(i) 海上运输和商业航空、航天发射和货运（包括卫星），此类保险应涵盖以下全部或部分内容：运输中的货物、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) 再保险和分保，以及根据第12.1(b)(i)条和第12.1(e)(ii)条及第12.1(e)(iv)条所述的与保险相关的服务；以及 (c) 保险中介，如根据第12.1(e)(iii)条与(a)和(b)项下服务相关的经纪和代理。

2. 对于智利，第12.6.1条适用于第12.1(b)(i)条定义的金融服务跨境供应或贸易，具体包括：

(a) 与以下风险相关的保险：(i) 国际海上运输和国际商业航空，此类保险应涵盖以下全部或部分内容：运输中的货物、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) 与(a)(i)和(a)(ii)相关的保险经纪；(c) 再保险和分保；再保险经纪；以及咨询、精算和风险评估。

银行及其他金融服务（不包括保险）

3. 对于澳大利亚，第12.6.1条适用于金融信息的提供和转让、金融数据处理及相关软件，如第12.1(e)(xv)条所述，以及银行及其他金融服务相关的咨询及其他辅助服务，不包括中介，如第12.1(e)(xvi)条所述。

4. For Chile, Article 12.6.1 applies with respect to:

(a) provision and transfer of financial information as described in Article 12.1(e)(xv);

(b) financial data processing as described in Article 12.1(e)(xv),subject to prior authorisation from the relevant regulator, as required; [12-6] and

(c) advisory and other auxiliary financial services, excluding intermediation and credit reference and analysis, relating to banking and other financial services as described in Article 12.1(e)(xvi).

5. Notwithstanding subparagraph 4(c), in the event that after the date of entry into force of this Agreement Chile allows credit reference and analysis to be supplied by cross-border financial service suppliers, it shall accord national treatment (as specified in Article 12.3.3) to cross-border financial service suppliers of Australia. Nothing in this commitment shall be construed to prevent Chile from subsequently restricting or prohibiting the supply of credit reference and analysis services by cross-border financial service suppliers.

6. It is understood that Chile's commitments on cross-border investment advisory services shall not, in and of themselves, be construed to require Chile to permit the public offering of securities (as defined under its relevant law) in it's territory by cross-border suppliers of Australia who supply or seek to supply such investment advisory services. Chile may subject the cross-border suppliers of investment advisory services to regulatory and registration requirements.

[12-6] It is understood that where the financial information or financial data processing referred to in subparagraphs (a) and (b) involve personal data, the treatment of such personal data shall be in accordance with Chilean law regulating the protection of such data.

4. 对于智利，第12.6.1条适用于：

(a) 金融信息的提供和转让，如第12.1(e)(xv)条所述； (b) 金融数据处理，如第12.1(e)(xv)条所述，需事先获得相关监管机构的授权，如所要求； [12-6]

以及 (c) 与银行及其他金融服务相关的咨询及其他辅助金融服务，如第12.1(e)(xvi)条所述，不包括中介和信用参考与分析。

5. 尽管有第4(c)项，如果在本协定生效后智利允许跨境金融服务提供者提供信用参考与分析服务，则智利应给予澳大利亚的跨境金融服务提供者国民待遇（如第12.3.3条所述）。本承诺中的任何内容均不得解释为阻止智利随后限制或禁止跨境金融服务提供者提供信用参考与分析服务。

6. 智利在跨境投资咨询服务方面的承诺不应被理解为要求智利允许澳大利亚的跨境供应商在其领土上通过证券公开发行（根据其相关法律定义）此类投资咨询服务。智利可以对投资咨询服务跨境供应商实施监管和注册要求。

[12-6] 理解的是，如果第(a)项和第(b)项所述的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遵守智利法律中关于此类数据保护的规定。

Annex 12-B
Annex on Specific Commitments

Section A *Pension Funds Management*

1. Notwithstanding the inclusion of the non-conforming measures of Chile in Annex III, Section 2, referring to social services, Chile, with respect to the establishment by an investor of Australia:

(a) shall permit such an investor that does not own or control an *Administradora de Fondos de Pensiones* under *Decreto Ley* 3.500 to establish or acquire in Chile an *Administradora de Fondos de Pensiones* to supply the financial services that such an institution may supply under Chile's domestic law at the time of establishment, without the imposition of numerical restrictions or of an economic needs test; and

(b) as required by its domestic law, shall not establish arbitrary differences with respect to such an investor in *Administradora de Fondos de Pensiones* under *Decreto Ley* 3.500.

2. No other modification of the effect of the non-conforming measures referring to social services is intended or shall be construed under this paragraph.

3. The specific commitments of Chile under paragraph 1 are subject to the headnotes and non-conforming measures set forth in Annex III of Chile with respect to financial services.

4. For the purposes of this Annex:

(a) an "investor of Australia" means an investor of Australia engaged in the business of providing banking and other financial services (excluding insurance) in Australia; and

(b) "numerical restrictions" means limitations imposed, either on the basis of a regional subdivision or on the basis of the entire territory, 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.

Section B: Voluntary Savings Plans; Non-Discriminatory Treatment of Australian Investors

1. Notwithstanding the inclusion of the non-conforming measures of Chile in Annex III, Section 2, referring to social services, with respect to voluntary savings pension plans established under *Ley* 19.768, Chile shall extend the obligations of Article 12.3.1 and 12.3.2 and of Article 12.4 to financial institutions of Australia,

附件12-B 附件关于具体承诺

A部分：养老金基金管理

1. 尽管附件III第2节中包含了智利关于社会服务的不符合规定的措施，但就澳大利亚投资者设立养老金基金管理人而言，智利：

(a) 应允许该不拥有或控制第3,500号法令下养老金基金管理人的投资者在智利设立或收购养老金基金管理人，以向该机构在设立时根据智利国内法可能提供的金融服务，而不施加数量限制或经济需要测试；以及
(b) 根据其国内法的要求，不得就该投资者设立第3,500号法令下的养老金基金管理人设置任意差异。

2. 本段无意修改或应解释为修改关于社会服务的不符合规定的措施的效果。

3. 智利根据第1段作出的具体承诺受智利关于金融服务的附件III中规定的标题和非符合规定的措施约束。

4. 就本附件而言：

(a) "澳大利亚投资者"是指从事在澳大利亚提供银行及其他金融服务（不包括保险）业务的澳大利亚投资者；以及(b) "数量限制"是指基于区域划分或基于整个领土，对金融机构数量施加的限制，无论其形式为数量配额、垄断、独家服务提供者或经济需要测试的要求。

B部分：自愿储蓄计划；澳大利亚投资者的非歧视待遇

1. 尽管智利在附件III第2部分中包含了关于社会服务的非符合规定的措施，但在根据第19,768号法律设立的自愿储蓄养老金计划方面，智利应将第12.3.1条和12.3.2条以及第12.4条的规定扩展至澳大利亚的金融机构，

investors of Australia, and investments of such investors in financial institutions established in Chile.

2. Notwithstanding the inclusion of the nonconforming measures of Chile in Annex III, Section 2, referring to social services, Chile, as required by its domestic law, shall not establish arbitrary differences with respect to Australian investors in *Administradoras de Fondos de Pensiones* under *Decreto Ley* 3.500.

Section C: Portfolio Management

1. A Party shall allow a financial institution (other than a trust company or insurance company) organised outside its territory to provide investment advice and portfolio management services, excluding (1) custodial services, (2) trustee services and (3) execution services that are not related to managing a collective investment scheme, to a collective investment scheme located in its territory. This commitment is subject to Article 12.2 and to Article 12.6.3, regarding the right to require registration, without prejudice to other means of prudential regulation.

2. Notwithstanding paragraph 1, a Party may require the collective investment scheme located in the Party's territory to retain ultimate responsibility for the management of the collective investment scheme or the funds it manages.

3. For the purposes of paragraph 1 and 2, a collective investment scheme means:

(a) in Australia, a managed investment scheme as defined under section 9 of the *Corporations Act 2001* (Cth), other than a managed investment scheme operated in contravention of subsection 601ED (5) of the *Corporations Act 2001* (Cth), or an entity that:

(i) carries on a business of investment in securities, interests in land, or other investments; and

(ii) in the course of carrying on that business, invests funds subscribed, whether directly or indirectly, after an offer or invitation to the public (within the meaning of section 82 of the *Corporations Act 2001* (Cth)) made on terms that the funds subscribed would be invested; and

(b) in Chile, the following fund management companies subject to supervision by the *Superintendencia de Valores y Seguros*:

(i) *Compañías Administradoras de Fondos Mutuos* (Decreto Ley 1.328 de 1976);

(ii) *Compañías Administradoras de Fondos de Inversión* (Ley 18.815 de 1989);

(iii) *Compañías Administradoras de Fondos de Inversión de Capital Extranjero* (*Ley* 18.657 de 1987);

澳大利亚的投资者，以及此类投资者在智利设立的金融机构的投资。

2. 尽管附件III第2部分包含了智利关于社会服务的非符合性措施，但智利根据其国内法要求，不得在Decreto Ley 3.500项下的养老金管理公司（Administradoras de Fondos de Pensiones）中，对澳大利亚投资者设立任意差别待遇。

第C部分：投资组合管理

1. 一方应允许其领土外组织的金融机构（不包括信托公司或保险公司）向其领土内的集合投资计划提供投资建议和投资组合管理服务，但排除（1）与管理集合投资计划无关的托管服务、（2）受托服务以及（3）执行服务。此项承诺受第12.2条和第12.6.3条关于要求注册的权利约束，且不妨碍其他审慎监管手段。

2. 尽管有第1段的规定，一方可以要求其领土内的集合投资计划对集合投资计划或其管理的资金的管理承担最终责任。

3. 根据第1段和第2段的规定，集合投资计划是指：

(a) 在澳大利亚，根据2001年公司法（澳）第9条定义的受管理的投资计划，不包括违反2001年公司法（澳）第601ED(5)款规定运营的受管理的投资计划，或一个：

(i) 从事证券、土地权益或
其他投资业务的实体；和

(ii) 在从事该业务的过程中，直接或间接地投资于公众招股或邀请后认购的资金
无论直接或间接，在向公众发出要约或邀请之后
(根据2001年公司法（澳）第82条的规定)
在资金认购将被投资的条件下作出；和

(b) 在智利，受证券和保险监督局监管的以下基金管理公司：

(i) 共同基金管理人公司（1976年第1.328号法令）； (ii) 投资基金管理人公司（1989年第18.815号法律）； (iii) 外国资本投资基金管理人公司（1987年第18.657号法律）；

(iv) *Compañías Administradoras de Fondos para la Vivienda* (*Ley* 18.281 de 1993); and

(v) *Compañías Administradoras Generales de Fondos* (*Ley* 18.045 de 1981).

(iv) 住房基金管理公司（1993年第18.281号法律）；和 (v) 通用基金管理公司（1981年第18.045号法律）。

Annex 12-C
Authorities Responsible for Financial Services

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

(a) for Australia, the Department of the Treasury, or its successor.

(b) for Chile, the *Ministerio de Hacienda*.

附件12-C 负责金融服务的当局

负责金融服务的每一方当局应为:

(a) 对于澳大利亚，财政部或其继任者。 (b) 对于智利，财政部长。