

CHAPTER THIRTEEN
FINANCIAL SERVICES

ARTICLE 13.1: SCOPE AND COVERAGE

1. This Chapter applies to measures adopted or maintained by a Party relating to:
- (a) financial institutions of the other Party;
 - (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 Eleven (Investment) and Twelve (Cross-Border Trade in Services) apply to measures described in paragraph 1 only to the extent that these Chapters or Articles of these Chapters are incorporated into this Chapter.
- (a) Articles 11.6 (Expropriation and Compensation), 11.7 (Transfers), 11.10 (Investment and Environment), 11.11 (Denial of Benefits), 11.13 (Special Formalities and Information Requirements), and 12.11 (Denial of Benefits) are hereby incorporated into and made part of this Chapter.
 - (b) Section B (Investor-State Dispute Settlement) of Chapter Eleven (Investment) is hereby incorporated into and made part of this Chapter solely for claims that a Party has breached Article 11.6, 11.7, 11.11, or 11.13 as incorporated into this Chapter.
 - (c) Article 12.10 (Payments and Transfers) is incorporated into and made part of this Chapter to the extent that cross-border trade in financial services is subject to obligations under Article 13.5.
3. This Chapter does not apply to measures adopted or maintained by a Party relating to:
- (a) activities or services forming part of a public retirement plan or statutory system of social security; or
 - (b) activities or services conducted for the account or with the guarantee or using the financial resources of the Party, including its public entities,

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

4. This Chapter does not apply to laws, regulations, or requirements governing the

第十三章 金融服务

第十三条第一款：范围与覆盖范围

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该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. 第十一章（投资）和第十二章（跨境服务贸易）仅在其条款或本章纳入的范围内适用于第1款所述措施。
- (a) 第11.6条（征收与补偿）、第11.7条（转移）、第11.10条（投资与环境）、第11.11条（利益拒绝）、第11.13条（特殊手续与信息要求）以及第12.11条（利益拒绝）特此纳入本章并成为其组成部分。(b) 第十一章（投资）B节（投资者-国家争端解决）特此纳入本章，仅适用于指控缔约方违反已纳入本章的第11.6条、第11.7条、第11.11条或第11.13条的索赔。(c) 第12.10条（支付与转移）在跨境金融服务贸易受第13.5条义务约束的范围内纳入本章并成为其组成部分。
3. 本章不适用于缔约方采取或维持的与以下内容相关的措施：
- (a) 构成公共退休计划或法定社会保障制度组成部分的活动或服务；或(b) 为缔约方（包括其公共实体）的账户、在其担保下或使用其财政资源进行的活动或服务，

但如果缔约方允许其金融机构与公共实体或金融机构竞争开展子款(a)或(b)所述的任何活动或服务，则本章应在该范围内适用。

4. 本章不适用于管辖

procurement by government agencies of financial services purchased for governmental purposes and not with a view to commercial resale or use in the supply of services for commercial sale.

ARTICLE 13.2: NATIONAL TREATMENT

1. Each Party shall accord to investors of the other Party treatment no less favorable 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 favorable 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 13.5.1, a Party shall accord to cross-border financial service suppliers of the other Party treatment no less favorable than that it accords to its own financial service suppliers, in like circumstances, with respect to the supply of the relevant service.

ARTICLE 13.3: MOST-FAVORED-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 favorable 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 13.4: MARKET ACCESS FOR FINANCIAL INSTITUTIONS

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

- (a) impose limitations on:

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

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

政府机构为政府目的而非为商业转售或用于商业销售的服务供应而采购金融服务的法律、法规或要求。

第13.2条：国民待遇

1. 每一缔约方在金融机构的设立、收购、扩展、管理、经营、运营及出售或其他处置方面，以及在领土内对金融机构的投资方面，应在类似情况下给予另一缔约方投资者的待遇不低于其给予本国投资者的待遇。
2. 每一缔约方在金融机构的设立、收购、扩展、管理、经营、运营及出售或其他处置方面，以及对金融机构的投资方面，应在类似情况下给予另一缔约方金融机构及另一缔约方投资者在金融机构中的投资的待遇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13.5.1条中的国民待遇义务而言，缔约方在提供相关服务方面，应在类似情况下给予另一缔约方跨境金融服务供应商的待遇不低于其给予本国金融服务供应商的待遇。

第13.3条：最惠国待遇

每一缔约方给予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的待遇，在类似情况下，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。

第13.4条：金融机构的市场准入

一缔约方不得以区域细分或整个领土为基础，针对另一缔约方的金融机构或寻求设立此类机构的另一缔约方投资者，采取或维持以下措施：

- (a) 施加以下限制：

(i) 金融机构的数量，无论是以数字形式配额、垄断、独家服务供应商，或经济需求测试的要求；(ii) 金融服务交易的总价值或以资产形式存在的数量配额或经济需求测试要求；

- (iii) the total number of financial service operations or on the total quantity of financial services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;¹ or
 - (iv) the total number of natural persons that may be employed in a particular financial service sector or that a financial institution may employ and who are necessary for, and directly related to, the supply of a specific financial service in the form of 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 13.5: CROSS-BORDER TRADE

1. Each Party shall permit, under terms and conditions that accord national treatment, cross-border financial service suppliers of the other Party to supply the services specified in Annex 13-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 obligation, provided that those definitions are not inconsistent with paragraph 1.
3. Without prejudice to other means of prudential regulation of cross-border trade in financial services, a Party may require the registration of cross-border financial service suppliers of the other Party and of financial instruments.

ARTICLE 13.6: NEW FINANCIAL SERVICES²

Each Party shall permit a financial institution of the other Party to supply any new financial service that the Party would permit its own financial institutions, in like circumstances, to supply without additional legislative action by the Party. Notwithstanding Article 13.4(b), 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 requires a financial institution to obtain authorization to supply a new financial service, the Party shall decide within a reasonable time whether to issue the authorization

¹ Clause (iii) does not cover measures of a Party which limit inputs for the supply of financial services.

² The Parties understand that nothing in Article 13.6 prevents a financial institution of a Party from applying to the other Party to request that it authorize the supply of a financial service that is supplied in neither Party’s territory. Such application shall be subject to the law of the Party to which the application is made and, for greater certainty, shall not be subject to the obligations of Article 13.6.

- (iii) 金融服务业务的总数或总
以配额形式或经济需求测试要求表示的、用指定数值单位衡量的金融服务产出数量；¹ 或
 - (iv) 可雇佣的自然人总数
特定金融服务部门或金融机构可雇佣的、且为提供特定金融服务所必需并直接相关的自然人总数，以数量配额或经济需求测试形式表示；或
- (b) 限制或要求金融机构通过特定类型的法律实体或合资企业提供服务。
金融机构可通过其提供服务的法律实体或合资企业的特定类型。

第13.5条：跨境贸易

1. 每一缔约方应按照给予国民待遇的条款和条件，允许另一方的跨境金融服务供应商提供附件13-A中规定的服务。
2. 每一缔约方应允许位于其领土内的个人及其国民（无论位于何处）从位于另一方领土内的另一方跨境金融服务供应商处购买金融服务。此项义务不要求一方允许此类供应商在其领土内开展业务或进行招揽。每一方可为本义务之目的定义“开展业务”和“招揽”，但此类定义不得与第1款相抵触。
3. 在不影响对跨境金融服务贸易进行审慎监管的其他手段的情况下，一方可要求对另一方的跨境金融服务供应商及金融工具进行注册。

第13.6条：新金融服务²

每一缔约方应允许另一缔约方的金融机构提供该缔约方在类似情况下允许其自身金融机构提供的任何新金融服务，而无需该缔约方采取额外立法行动。尽管有第13.4(b)条的规定，缔约方可决定提供新金融服务所采用的制度和法律形式，并可要求对该服务的提供进行授权。若缔约方要求金融机构获得授权以提供新金融服务，则该缔约方应在合理时间内决定是否颁发授权。

¹ 第(iii)款不涵盖一方限制金融服务供应投入的措施。

² 双方理解，第13.6条中的任何规定均不妨碍一缔约方的金融机构向另一缔约方提出申请，要求其授权提供在双方领土内均未提供的金融服务。此类申请应受接受申请的缔约方法律管辖，且为明确起见，不受第13.6条义务的约束。

and the authorization may be refused only for prudential reasons.

ARTICLE 13.7: 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 13.8: SENIOR MANAGEMENT AND BOARDS OF DIRECTORS

1. A Party may not require financial institutions of the other Party to engage individuals of any particular nationality as senior managerial or other essential personnel.
2. A Party may not 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 13.9: NON-CONFORMING MEASURES

1. Articles 13.2 through 13.5 and Article 13.8 do not apply to:
 - (a) any existing non-conforming measure that is maintained by a Party at
 - (i) the central level of government, as set out by that Party in Section A of its Schedule to Annex III,
 - (ii) a regional level of government, as set out by that Party in Section A of its Schedule to Annex III, or
 - (iii) a local level of government;³
 - (b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or
 - (c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Article 13.2,

³ For Korea, **local level of government** means a local government as defined in the *Local Autonomy Act*.

且仅可出于审慎原因拒绝授权。

第13.7条：特定信息的处理

本章不要求任何缔约方提供或允许准入以下信息：

- (a) 与金融机构或跨境金融服务供应商的个人客户的财务事务和账户相关的信息；或 (b) 任何机密信息，其披露会妨碍执法、违反公共利益或损害特定企业的合法商业利益。

第13.8条：高级管理层和董事会

1. 缔约方不得要求另一缔约方的金融机构聘用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. 缔约方不得要求另一缔约方的金融机构董事会中超过少数成员由该缔约方的国民、居住在该缔约方领土内的个人或两者组合构成。

第13.9条：不符措施

1. 第13.2条至第13.5条及第13.8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) 中央政府层级，如该缔约方在其附件三减让表A部分所列；(ii) 区域政府层级，如该缔约方在其附件三减让表A部分所列；或(iii) 地方政府层级；³(b) 子款(a)所指任何不符措施的延续或及时更新；或(c) 对子款(a)所指任何不符措施的修正，只要该修正未降低该措施在修正前即刻与第13.2条的一致性程度，

³ 对于韩国而言，地方政府层级指《地方自治法》定义的地方政府。

13.3, 13.4, or 13.8.⁴

2. Articles 13.2 through 13.5 and Article 13.8 do not apply to any measure that a Party adopts or maintains with respect to sectors, subsectors, or activities, as set out by that Party in Section B of its Schedule to Annex III.

3. A non-conforming measure set out in an entry in a Party’s Schedule to Annex I or II as not subject to Article 11.3 (National Treatment), 11.4 (Most-Favored-Nation Treatment), 12.2 (National Treatment), or 12.3 (Most-Favored-Nation Treatment), shall be treated as a non-conforming measure not subject to Article 13.2 or 13.3, as the case may be, to the extent that the measure, sector, subsector, or activity set out in the entry is covered by this Chapter.

ARTICLE 13.10: EXCEPTIONS

1. Notwithstanding any other provision of this Chapter or Chapter Eleven (Investment), Fourteen (Telecommunications), including specifically Article 14.23 (Relation to Other Chapters), or Fifteen (Electronic Commerce), and, in addition, Article 12.1.3 (Scope and Coverage) with respect to the supply of financial services in the territory of a Party by a covered investment, a Party shall not be prevented from adopting or maintaining measures for prudential reasons,⁵ including for the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed by a financial institution or cross-border financial service supplier, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of this Agreement referred to in this paragraph, they shall not be used as a means of avoiding the Party’s commitments or obligations under such provisions.

2. Nothing in this Chapter or Chapter Eleven (Investment), Fourteen (Telecommunications), including specifically Article 14.23 (Relation to Other Chapters), or Fifteen (Electronic Commerce), and, in addition, Article 12.1.3 (Scope and Coverage) with respect to the supply of financial services in the territory of a Party by a covered investment, 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 11.8 (Performance Requirements) with respect to measures covered by Chapter Eleven or under Article 11.7 (Transfers) or 12.10 (Payments and Transfers).

3. Notwithstanding Articles 11.7 (Transfers) and 12.10 (Payments and Transfers), as incorporated into this Chapter, a Party may prevent or limit transfers by a financial

⁴ For greater certainty, Article 13.5 applies to an amendment to any non-conforming measure referred to in subparagraph (a) only to the extent that the amendment decreases the conformity of the measure, as it existed on the date of entry into force of the Agreement, with Article 13.5.

⁵ 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.

13.3、13.4或13.8。⁴

2. 第13.2条至第13.5条以及第13.8条不适用于缔约方就其附件三减让表B部分所列部门、分部门或活动采取或维持的任何措施。

3. 缔约方在附件一或附件二减让表中列明的不符措施，若其条目规定该措施不受第11.3条（国民待遇）、第11.4条（最惠国待遇）、第12.2条（国民待遇）或第12.3条（最惠国待遇）约束，则应视为该不符措施在条目所列措施、部门、分部门或活动受本章约束的范围内，不适用第13.2条或第13.3条（视情况而定）。

第13.10条：例外

1. 尽管有本章或第十一章（投资）、第十四章（电信）（特别是第14.23条（与其他章节的关系））或第十五章（电子商务）的任何其他规定，并且在不影响第12.1.3条（范围与覆盖范围）关于涵盖投资在缔约方领土内提供金融服务的前提下，不得阻止缔约方出于审慎原因⁵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及跨境金融服务供应商对其负有受托责任的个人，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款所述本协议条款的规定，则不得将其用作规避缔约方在该等条款下承诺或义务的手段。

2. 本章或第十一章（投资）、第十四章（电信）（特别是第14.23条（与其他章节的关系））或第十五章（电子商务）中的任何规定，以及第12.1.3条（范围与覆盖范围）中关于缔约方领土内由涵盖投资提供的金融服务的规定，均不适用于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。本款不影响缔约方根据第11.8条（业绩要求）对第十一章所涵盖措施的义务，也不影响根据第11.7条（转移）或第12.10条（支付与转移）的义务。

3. 尽管有第11.7条（转移）和第12.10条（支付与转移）的规定（已纳入本章），一缔约方可通过公平、非歧视和诚信地实施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

⁴ 为进一步明确，第13.5条仅适用于对子款(a)所述任何不符措施的修正，且仅限于该修正降低了该措施在协议生效之日时与第13.5条的一致性程度的情形。

⁵ 应当理解，“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、诚信或财务责任。

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 a Party from adopting or enforcing 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.

ARTICLE 13.11: TRANSPARENCY

1. The Parties recognize that transparent regulations and policies governing the activities of financial institutions and cross-border financial service suppliers are important in facilitating access of foreign financial institutions and foreign cross-border 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. In lieu of paragraphs 2 through 4 of Article 21.1 (Publication), each Party, to the extent practicable:

- (a) shall publish in advance any regulations of general application relating to the subject matter of this Chapter that it proposes to adopt and the purpose of the regulation;
- (b) shall provide interested persons and the other Party a reasonable opportunity to comment⁶ on such proposed regulations;⁷ and

⁶ For greater certainty, when a Party publishes regulations in advance as described in subparagraph (a), the Party shall provide an address, whether electronic or otherwise, to which interested persons and the other Party may send their comments.

⁷ Further to subparagraph (b), the FSS shall continue its current practice of providing a period for interested persons and the other Party to comment on its proposed measures of general application, including the *Detailed Enforcement Rules*, that is at least as long as the period for commenting on proposed regulations under Korea’s *Administrative Procedures Act* and related regulations.

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相关的个人进行或为其利益进行的转移。本款不影响本协议中允许缔约方限制转移的任何其他条款。

4. 为进一步明确，本章的任何规定不得解释为阻止缔约方采取或执行必要的措施，以确保遵守与本章不相抵触的法律法规，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进行任意或不合理歧视的手段，或构成对金融机构投资或跨境金融服务贸易的变相限制。

第13.11条：透明度

1. 双方认识到，规范金融机构和跨境金融服务供应商活动的透明法规和政策，对于便利外国金融机构和外国跨境金融服务供应商进入彼此市场并在其中运营具有重要意义。每一缔约方承诺促进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. 作为第21.1条（公布）第2至4款的替代方案，各缔约方应在可行范围内：

- (a) 应提前公布任何普遍适用的法规，涉及本章拟采纳的主题内容及其监管目的；
- (b) 应为利害关系人及另一缔约方提供合理的机会就此类拟议法规⁶ 发表意见；⁷ 且

⁶ 为更加明确起见，当一缔约方按照子款(a)所述提前公布法规时，该缔约方应提供一个电子或其他形式的地址，以便利利害关系人和另一缔约方发送其意见。

⁷ 根据(b)项进一步规定，金融监督院应延续现行做法，为利害关系人及另一缔约方提供对其拟议普遍适用措施（包括详细实施细则）的评议期，该期限至少应与韩国行政程序法及相关法规下对拟议法规的评议期相同。

(c) should at the time it adopts final regulations, address in writing substantive comments received from interested persons with respect to the proposed regulations.

4. To the extent practicable, each Party should allow reasonable time between publication of final regulations of general application and their effective date.
5. Each Party shall ensure that the rules of general application adopted or maintained by self-regulatory organizations of the Party are promptly published or otherwise made available in such a manner as to enable interested persons to become acquainted with them.
6. Each Party shall maintain or establish appropriate mechanisms for responding to inquiries from interested persons regarding measures of general application covered by this Chapter.
7. Each Party’s regulatory authorities shall make publicly available the requirements, including any documentation required, for completing applications relating to the supply of financial services.
8. On the request of an applicant, a Party’s regulatory authority shall inform the applicant of the status of its application. If the authority requires additional information from the applicant, it shall notify the applicant without undue delay.
9. A Party’s regulatory authority shall make an administrative decision on a completed application of 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 endeavor to make the decision within a reasonable time thereafter.
10. 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.

ARTICLE 13.12: SELF-REGULATORY ORGANIZATIONS⁸

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 that the self-regulatory organization observes the obligations of Articles 13.2 and

⁸ For greater certainty, an organization is subject to Article 13.12 to the extent that membership or participation in or access to the organization is required to supply a financial service.

(c) 应在通过最终法规时，书面回应利害关系人对拟议法规提出的实质性意见。

4. 在可行范围内，每一缔约方应在普遍适用的最终法规公布与其生效日期之间留出合理时间。
5. 每一缔约方应确保其自律组织制定或维持的普遍适用规则及时公布或以其他方式提供，以便利利害关系人知悉。
6. 每一缔约方应维持或建立适当机制，以回应利害关系人就本章所涵盖的普遍适用措施提出的询问。
7. 每一缔约方的监管机构应公开与金融服务提供相关的申请完成要求，包括所需文件。
8. 应申请人要求，缔约方的监管机构应告知申请人其申请状态。如该机构需要申请人提供额外信息，应立即通知申请人。
9. 缔约方的监管机构应在120天内对金融机构投资者、金融机构或另一缔约方跨境金融服务供应商提交的关于金融服务提供的完整申请作出行政决定，并立即通知申请人决定结果。在所有相关听证会举行且收到全部必要信息前，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。
10. 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原因。

第十三条第十二款：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自律组织的成员、参与自律组织或利用自律组织以在该缔约方领土内或向该缔约方领土提供金融服务，则该缔约方应确保该自律组织遵守第13.2条及

⁸ 为进一步明确，若某组织的会员资格、参与或准入是提供金融服务所必需的，则该组织受第13.12条约束。

13.3.

ARTICLE 13.13: PAYMENT AND CLEARING SYSTEMS

Under terms and conditions that accord national treatment, each Party shall grant 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 13.14: RECOGNITION

1. 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 autonomously;

(b) achieved through harmonization or other means; or

(c) based on 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 described 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 13.15: SPECIFIC COMMITMENTS

Annex 13-B sets out certain specific commitments by each Party.

ARTICLE 13.16: FINANCIAL SERVICES COMMITTEE

1. The Parties hereby establish a Financial Services Committee. The principal representative of each Party shall be an official of the Party’s authority responsible for financial services set out in Annex 13-C.
2. The Committee shall:
- (a) supervise the implementation of this Chapter and its further elaboration;

(b) consider issues regarding financial services that are referred to it by a Party;

13.3.

第13.13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融资和再融资设施。本条款无意授予缔约方使用其最后贷款人设施的权利。

第13.14条：认可

1. 缔约方在实施本章所涵盖的措施时，可认可非缔约方的审慎措施。此类认可可通过以下方式实现：
- (a) 自主给予；(b) 通过协调或其他方式达成；或(c) 基于与非缔约方的协议或安排。
2. 根据第1款给予审慎措施认可的缔约方，应为另一缔约方提供充分机会，以证明存在或可能存在以下情形：双方在监管、监督、监管实施以及（如适用）信息共享程序方面具有等效性。
3. 如一缔约方根据第1款(c)项对审慎措施给予承认，且存在第2款所述情形，则该缔约方应为另一缔约方提供充分机会，以谈判加入该协议或安排，或谈判达成类似的协议或安排。

第13.15条：具体承诺

附件13-B列明了各缔约方的某些具体承诺。

ARTICLE 13.16: FINANCIAL SERVICES COMMITTEE

1. 双方特此设立金融服务委员会。各缔约方的首席代表应为该缔约方负责附件13-C所列金融服务的当局官员。
2. 委员会应：
- (a) 监督本章的实施及其进一步细化；(b) 审议缔约方提交的关于金融服务的问题；

and

- (c) participate in the dispute settlement procedures in accordance with Article 13.19.

3. The Committee shall meet annually, or as otherwise agreed, to assess the functioning of this Agreement as it applies to financial services. The Committee shall inform the Joint Committee of the results of each of its meetings.

ARTICLE 13.17: 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. Consultations under this Article shall include officials of the authorities specified in Annex 13-C.

ARTICLE 13.18: DISPUTE SETTLEMENT

1. Section B (Dispute Settlement Proceedings) of Chapter Twenty-Two (Institutional Provisions and Dispute Settlement) applies as modified by this Article to the settlement of disputes arising under this Chapter.

2. When a Party claims that a dispute arises under this Chapter, Article 22.9 (Establishment of Panel) shall apply, except that:

- (a) where the Parties so agree, the panel shall be composed entirely of panelists meeting the qualifications in paragraph 3; and
- (b) in any other case,
 - (i) each Party may select panelists meeting the qualifications set out in paragraph 3 or in Article 22.9.4, and
 - (ii) if the Party complained against invokes Article 13.10, the chair of the panel shall meet the qualifications set out in paragraph 3, unless the Parties otherwise agree.

3. Financial services panelists shall:

- (a) have expertise or experience in financial services law or practice, which may include the regulation of financial institutions;
- (b) be chosen strictly on the basis of objectivity, reliability, and sound judgment;

以及 (c) 根据第...条参与争端解决程序

13.19.

3. 委员会应每年召开一次会议，或在双方另行商定的时间召开会议，以评估本协议在金融服务领域的实施情况。委员会应向联合委员会通报每次会议的成果。

第13.17条：磋商

1. 一缔约方可就本协议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。双方应向委员会报告磋商结果。

2. 根据本条进行的磋商应包括附件13-C所列主管机关的官员。

第13.18条：争端解决

1. 第二十二章（机构条款和争端解决）B节（争端解决程序）经本条修改后适用于本章项下产生的争端解决。

2. 当一缔约方主张争端产生于本章时，应适用第22.9条（专家组的设立），但以下情况除外：

- (a) 如双方同意，专家组应全部由符合第3款资格的专家组成员组成；及 (b) 在任何其他情况下，(i) 各缔约方可选择符合第3款或第22.9.4条规定的专家组成员，且 (ii) 如被诉方援引第13.10条，专家组主席应符合第3款规定的资格，除非双方另有约定。

3. 金融服务专家组成员应：

- (a) 具备金融服务法律或实务方面的专业知识或经验，可包括金融机构监管；
- (b) 严格基于客观性、可靠性和合理判断力进行遴选；

- (c) be independent of, and not be affiliated with or take instructions from, a disputing Party; and
- (d) comply with the code of conduct to be established by the Joint Committee.

4. Notwithstanding Article 22.13 (Non-Implementation), where a panel finds a measure to be inconsistent with this Agreement and the measure under dispute 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 measure 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 13.19: INVESTMENT DISPUTES IN FINANCIAL SERVICES

1. Where an investor of a Party submits a claim to arbitration under Section B (Investor-State Dispute Settlement) of Chapter Eleven (Investment), and the respondent invokes Article 13.10 as a defense, the following provisions shall apply:

- (a) The respondent shall, within 120 days of the date the claim is submitted to arbitration under Section B of Chapter Eleven, submit in writing to the Financial Services Committee a request for a joint determination on the issue of whether and to what extent Article 13.10 is a valid defense to the claim. The respondent shall promptly provide the tribunal, if constituted, a copy of such request. The arbitration may proceed with respect to the claim only as provided in subparagraph (d).
- (b) The Committee shall attempt in good faith to make a determination as described in subparagraph (a). Any such determination shall be transmitted promptly to the disputing parties and, if constituted, to the tribunal. The determination shall be binding on the tribunal.
- (c) If the Committee, within 60 days of the date by which it has received the respondent’s written request for a determination under subparagraph (a), has not made a determination as described in that subparagraph, the tribunal shall decide the issue left unresolved by the Committee. The provisions of Section B of Chapter Eleven shall apply, except as modified by this subparagraph.
 - (i) In the appointment of all arbitrators not yet appointed to the tribunal, each disputing party shall take appropriate steps to ensure that the

(c) 独立于争议方，且不与争议方存在附属关系或接受其指示；以及 (d) 遵守联合委员会将制定的行为准则。

4. 尽管有第22.13条（未履行义务）的规定，若专家组认定某项措施不符合本协议且争议措施影响：

(a) 仅金融服务部门，申诉方仅可暂停金融服务部门的利益；(b) 金融服务部门及任何其他部门，申诉方可暂停金融服务部门中与该措施在缔约方金融服务部门中影响效果相当的利益；或(c) 仅非金融服务部门，申诉方不得暂停金融服务部门的利益。

第13.19条：金融服务中的投资争端

1. 当一方的投资者根据第十一章（投资）B节（投资者-国家争端解决）提交仲裁请求，且被申请人援引第13.10条作为抗辩时，应适用下列规定：

(a) 被申请人应在根据第十一章B节提交仲裁请求之日起120天内，向金融服务委员会提交书面请求，要求就第13.10条是否及在何种程度上构成对请求的有效抗辩作出联合裁定。被申请人应立即向已组成的仲裁庭提供该请求的副本。仲裁仅可按子款(d)规定就请求继续进行。(b) 委员会应本着诚信原则努力作出子款(a)所述的裁定。任何此类裁定应立即传达给争议各方，若仲裁庭已组成，也应传达给仲裁庭。该裁定对仲裁庭具有约束力。(c) 若委员会在收到被申请人根据子款(a)提交的书面裁定请求之日起60天内未作出该子款所述的裁定，则仲裁庭应决定委员会未决事项。第十一章B节的规定应适用，但本子款修改的内容除外。(i) 在任命所有尚未任命至仲裁庭的仲裁员时，

每一争议方应采取适当步骤以确保

- tribunal has expertise or experience as described in Article 13.18.3(a). The expertise or experience of particular candidates with respect to financial services shall be taken into account to the greatest extent possible in the appointment of the presiding arbitrator.
- (ii) If, prior to the submission of the request for a determination in conformance with subparagraph (a), the presiding arbitrator has been appointed pursuant to Article 11.19.3 (Selection of Arbitrators), such arbitrator shall be replaced upon the request of either disputing party and the tribunal shall be reconstituted consistent with clause (i). If, within 30 days of the date the arbitration proceedings are resumed under subparagraph (d), the disputing parties have not agreed on the appointment of a new presiding arbitrator, the Secretary-General, on the request of a disputing party, shall appoint the presiding arbitrator consistent with clause (i).
 - (iii) The Party of the claimant may make oral and written submissions to the tribunal regarding the issue of whether and to what extent Article 13.10 is a valid defense to the claim. Unless it makes such a submission, the Party of the claimant shall be presumed, for purposes of the arbitration, to take a position on Article 13.10 not inconsistent with that of the respondent.
- (d) The arbitration referred to in subparagraph (a) may proceed with respect to the claim:
- (i) ten days after the date the determination of the Committee has been received by the disputing parties and, if constituted, the tribunal; or
 - (ii) ten days after the expiration of the 60-day period extended to the Committee in subparagraph (c).

2. The definitions of the following terms set out in Article 11.28 (Definitions) are incorporated into this Article, *mutatis mutandis*: claimant, disputing parties, disputing party, respondent, and Secretary-General.

ARTICLE 13.20: DEFINITIONS

For purposes of this Chapter:

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

cross-border trade in financial services or **cross-border supply of financial services**

仲裁庭具备第13.18.3(a)条所述的专业知识或经验。在任命首席仲裁员时，应尽可能最大限度地考虑特定候选人在金融服务方面的专业知识或经验。

- (ii) 若在提交符合子款(a)的裁定请求前，首席仲裁员已根据第11.19.3条（仲裁员选任）完成任命，则经任一争议方请求应更换该仲裁员，并依照(i)款重组仲裁庭。若在(d)子款下恢复仲裁程序之日起30日内，争议各方未能就新任首席仲裁员人选达成一致，则应争议方请求，秘书长应依照(i)款任命首席仲裁员。
- (iii) 申请人所属缔约方可就第13.10条是否及在何种程度上构成对主张的有效抗辩问题，向仲裁庭提交口头及书面陈述。除非该缔约方提交此类陈述，否则出于仲裁目的，应推定其对第13.10条的立场与被申请人立场无实质分歧。

(d) 子款(a)中提及的仲裁可就该申请继续进行：

- (i) 委员会决定送达争议各方及已组成的仲裁庭之日起十日后；或(ii) 委员会根据子款(c)延长的60天期限届满后十日内。

2. 第11.28条（定义）中下列术语的定义经必要修改后纳入本条：申请人、争议各方、争议方、被申请人和秘书长。

第十三章 金融服务条款13.20：支付与清算系统

就本章而言：

一方的跨境金融服务供应商指在该方领土内从事金融服务业务，并寻求通过跨境提供方式供应或已供应金融服务的该方的人；

跨境金融服务贸易或跨境金融服务提供

means the supply of a financial service:

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

but does not include the supply of a financial service in the territory of a Party by an 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:

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; and
- (d) Services auxiliary to insurance, such as consultancy, actuarial, risk assessment, and claim settlement services.

Banking and other financial services (excluding insurance)

- (e) Acceptance of deposits and other repayable funds from the public;
- (f) Lending of all types, including consumer credit, mortgage credit, factoring, and financing of commercial transactions;

指金融服务的提供:

- (a) 自一缔约方领土进入另一缔约方领土; (b) 在一缔约方领土内, 由该缔约方的个人向另一缔约方的个人提供; 或 (c) 由一缔约方的国民在另一缔约方领土内提供,

但不包括通过在一缔约方领土内的投资在该领土内提供金融服务;

金融机构指根据其所在缔约方领土的法律获准开展业务并作为金融机构受到监管或监督的任何金融中介或其他企业;

另一缔约方的金融机构指位于一缔约方领土内、由另一缔约方个人控制的金融机构, 包括分支机构;

金融服务指具有金融性质的服务。金融服务包括所有保险及保险相关服务, 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附带或辅助的服务。金融服务包括以下活动:

保险及保险相关服务

- (a) 直接保险 (包括共保): (i) 人寿保险, (ii) 非人寿; (b) 再保险及转分保; (c) 保险中介, 如经纪及代理; 以及(d) 保险辅助服务, 如咨询、精算、风险评估及理赔服务。

银行及其他金融服务 (保险除外)

- (e) 接受公众存款和其他可偿还资金; (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) Financial leasing;
- (h) All payment and money transmission services, including credit, charge and debit cards, travelers checks, and bankers drafts;
- (i) Guarantees and commitments;
- (j) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market, or otherwise, the following:
 - (i) money market instruments (including checks, bills, certificates of deposits);
 - (ii) foreign exchange;
 - (iii) derivative products including, but not limited to, futures and options;
 - (iv) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;
 - (v) transferable securities;
 - (vi) other negotiable instruments and financial assets, including bullion;
- (k) Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;
- (l) Money broking;
- (m) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository, and trust services;
- (n) Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;
- (o) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; 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

(g) 金融租赁；(h) 所有支付和资金传输服务，包括信用卡、签账卡和借记卡、旅行支票和银行汇票；(i) 担保和承诺；(j) 自营交易或客户账户交易，不论是在交易所、场外市场或其他场所，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) 衍生品，包括但不限于期货和期权；(iv) 汇率和利率工具，包括掉期、远期利率协议等产品；(v) 可转让证券；(vi) 其他可转让票据和金融资产，包括金银条块；(k) 参与各类证券发行，包括承销和代理配售（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、存管和信托服务；(n) 金融资产的结算和清算服务，包括证券、衍生品和其他可转让票据；(o) 金融信息的提供和传输，以及其他金融服务供应商提供的金融数据处理和相关软件；(p) 就(e)至(o)项所列所有活动提供咨询、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与建议、收购建议以及公司重组和战略建议；

一方的金融服务供应商 指 一方的人 从事

business of supplying a financial service within the territory of that Party;

FSS means the Financial Supervisory Service⁹ established under Korea’s *Act on the Establishment, etc. of Financial Supervisory Organizations*;

investment means “investment” as defined in Article 11.28 (Definitions), except that, with respect to “loans” and “debt instruments” referred to in that Article:

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

for greater certainty, 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 for purposes of Chapter Eleven (Investment), if such loan or debt instrument meets the criteria for investments set out in Article 11.28 (Definitions);

investor of a Party means a Party or state enterprise thereof, or a person of a Party, that attempts to make, is making, or has made an investment in the territory of the other Party; provided, however, that a natural person who is a dual national shall be deemed to be exclusively a national of the State of his or her dominant and effective nationality;

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

person of a Party means “person of a Party” as defined in Article 1.4 (Definitions) and, for greater certainty, does not include a branch of an enterprise of a non-Party;

public entity means a central bank or monetary authority of a Party, or any financial institution owned or controlled by a Party; for purposes of Chapter Sixteen (Competition-Related Matters), a central bank or monetary authority of a Party, or any financial institution that performs a financial regulatory function and is owned or controlled by a Party,¹⁰ shall not be considered a designated monopoly or a state enterprise; and

self-regulatory organization means any non-governmental body, including any securities

⁹ For greater certainty, Korea shall ensure that the FSS complies with Korea’s obligations under this Agreement.

¹⁰ The Korea Deposit Insurance Corporation of Korea and the Federal Deposit Insurance Corporation of the United States shall be deemed to be within the definition of public entity for purposes of Chapter Sixteen (Competition-Related Matters).

在该方领土内提供金融服务的业务；

FSS指依据韩国金融监督机构设立等相关法案设立的金融监督院⁹；

投资指第11.28条（定义）中所定义的“投资”，但该条中提及的“贷款”和“债务工具”除外：

- (a) 向金融机构提供的贷款或由金融机构发行的债务工具属于投资，仅当其被视为金融机构所在领土的缔约方的监管资本时；
- (b) 由金融机构发放的贷款或金融机构持有的债务工具，其他比子款(a)所指金融机构发放的贷款或发行的债务工具，不构成投资；

为进一步明确，跨境金融服务供应商发放的贷款或持有的债务工具（金融机构发放的贷款或发行的债务工具除外），若该贷款或债务工具符合第11.28条（定义）规定的投资标准，则构成第十一章（投资）项下的投资；

一方的投资者指该方或其国有企业，或该方的个人，试图在另一方领土内进行、正在进行或已进行投资；但双重国籍自然人应仅视为其具有主要及有效国籍国家的国民；

新金融服务指一方领土内未提供、但在另一方领土内提供的金融服务，包括该方领土内未以新形式提供的金融服务或未销售的金融产品；

一方的人指第一章第四条（定义）中所定义的“一方的人”，且为明确起见，不包括非缔约方企业的分支机构；

公共实体指一方的中央银行或货币当局，或由一方拥有或控制的任何金融机构；就第十六章（竞争相关事项）而言，一方的中央银行或货币当局，或履行金融监管职能并由一方拥有或控制的任何金融机构¹⁰，不得被视为指定垄断或国有企业；且

self-regula 自律组织是指任何非政府机构，包括任何证券 s

⁹ 为明确起见，韩国应确保金融监督院遵守韩国在本协议下的义务。

¹⁰ 就第十六章（竞争相关事项）而言，韩国存款保险公司和美国的联邦存款保险公司应被视为属于公共实体的定义范围。

or futures exchange or market, clearing agency, or other organization or association, that exercises regulatory or supervisory authority over financial service suppliers or financial institutions, by statute or delegation from central, regional, or local governments or authorities; for purposes of Chapter Sixteen (Competition-Related Matters), a self-regulatory organization shall not be considered a designated monopoly.

或期货交易所或市场、清算机构、或其他组织或协会，通过中央、地区或地方政府或当局的法规或授权，对金融服务供应商或金融机构行使监管或监督权；就第十六章（竞争相关事项）而言，自律组织不应被视为指定垄断。

ANNEX 13-A
CROSS-BORDER TRADE

UNITED STATES

Insurance and insurance-related services

1. Article 13.5.1 applies to the cross-border supply of or trade in financial services as defined in subparagraph (a) of the definition of cross-border supply of financial services in Article 13.20 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; and
- (b) reinsurance and retrocession, services auxiliary to insurance as referred to in subparagraph (d) of the definition of financial service in Article 13.20, and insurance intermediation such as brokerage and agency as referred to in subparagraph (c) of the definition of financial service in Article 13.20.

2. Article 13.5.1 applies to the cross-border supply of or trade in financial services as defined in subparagraph (c) of the definition of cross-border supply of financial services in Article 13.20 with respect to insurance services.

Banking and other financial services (excluding insurance)

3. Article 13.5.1 applies only with respect to:
- (a) 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 13.20; and
 - (b) advisory and other auxiliary services, excluding intermediation, relating to banking and other financial services as referred to in subparagraph (p) of the definition of financial service in Article 13.20.

KOREA

Insurance and insurance-related services

附件13-A 跨境贸易

美国

保险及保险相关服务

1. 第13.5.1条适用于第13.20条中跨境金融服务提供定义子款(a)所定义的金融服务跨境提供或贸易，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、运输货物的工具及由此产生的任何责任；及(ii) 国际运输货物；及(b) 再保险和转分保、第13.20条金融服务定义子款(d)所指的保险辅助服务，以及第13.20条金融服务定义子款(c)所指的保险中介（如经纪和代理）。

2. 第13.5.1条适用于第13.20条中跨境金融服务提供定义(c)项所定义的保险服务领域的跨境金融服务提供或金融服务贸易。

银行及其他金融服务（保险除外）

3. 第13.5.1条仅适用于：

(a) 第13.20条金融服务定义(o)项所述的金融信息的提供和传输、金融数据处理及相关软件；及 (b) 第13.20条金融服务定义(p)项所述的与银行及其他金融服务有关的咨询及其他辅助服务（中介除外）。

KOREA

保险及保险相关服务

4. Article 13.5.1 applies to the cross-border supply of or trade in financial services as defined in subparagraph (a) of the definition of cross-border supply of financial services in Article 13.20 with respect to:

- (a) insurance of risks relating to:
 - (i) maritime shipping and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability arising therefrom; and
 - (ii) goods in international transit;
- (b) reinsurance and retrocession;
- (c) services auxiliary to insurance, such as consultancy,¹¹ risk assessment,¹² actuarial and claim settlement services; and
- (d) insurance intermediation, such as brokerage and agency as referred to in subparagraph (c) of the definition of financial service in Article 13.20, of insurance of risks related to services listed in subparagraphs (a) and (b) of this paragraph.

5. Article 13.5.1 applies to the cross-border supply of or trade in financial services as defined in subparagraph (c) of the definition of cross-border supply of financial services in Article 13.20 with respect to services auxiliary to insurance, such as consultancy, actuarial, risk assessment, and claim settlement services.

Banking and other financial services (excluding insurance)

6. Article 13.5.1 applies only with respect to:
- (a) the provision and transfer of financial information;¹³
 - (b) the provision and transfer of financial data processing and related software relating to banking and other financial services as referred to in subparagraph (o) of the definition of financial service in Article 13.20, by no later than two

¹¹ **Consultancy** means activities such as providing advice on corporate strategy formulation, marketing strategy, or product development strategy.

¹² **Risk assessment** means activities such as risk analysis, risk prevention, or expert advice related to difficult or unusual risks.

¹³ For greater certainty, “financial information” referred to in paragraph 6(a) does not include general financial or business information that is included within a general circulation publication or provided for a general audience.

4. 第13.5.1条适用于第13.20条中跨境金融服务提供定义子款(a)所定义的跨境金融服务提供或金融服务贸易，涉及：

- (a) 与以下内容相关的风险保险：(i) 海上运输、商业航空和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所有内容：被运输的货物、运输货物的工具以及由此产生的任何责任；及(ii) 国际运输货物；(b) 再保险和转分保；(c) 保险辅助服务，如咨询、¹¹ 风险评估、¹²精算和理赔服务；及(d) 保险中介，如第13.20条金融服务定义中(c)项所指的经纪和代理，涉及本款(a)和(b)项所列服务的相关风险保险。

5. 第13.5.1条适用于跨境金融服务提供或金融服务贸易，如第13.20条中跨境金融服务提供定义的(c)项所述，涉及保险辅助服务，如咨询、精算、风险评估和理赔服务。

银行及其他金融服务（保险除外）

6. 第13.5.1条仅适用于以下情况：
- (a) 金融信息提供和传输，以及相关软件
 - (b) 金融数据处理和传输
- 涉及第13.20条金融服务定义中(o)项所指的银行业及其他金融服务，且不迟于本协议生效之日起两

¹¹ 咨询指提供企业战略制定、市场策略或产品开发策略建议等活动。¹² 风险评估指风险分析、风险预防或针对疑难及特殊风险提供专家意见等活动。¹³ 为进一步明确，第6款(a)项所述“金融信息”不包括一般性金融

或包含在公开发行业出版物中或向公众提供的商业信息。

years from the date this Agreement enters into force; and

- (c) advisory and other auxiliary services, excluding intermediation, relating to banking and other financial services as referred to in subparagraph (p) of the definition of financial service in Article 13.20. This commitment applies to the supply of credit rating, credit reference and investigation, general fund administration, indirect investment vehicle appraisal, and bond appraisal with regard to securities issued in Korea¹⁴ only to the extent that Korea allows the supply of these services with respect to such assets. This commitment does not apply to (i) credit rating of enterprises in Korea; or (ii) credit reference and investigation undertaken for purposes of lending and other financial transactions in Korea with respect to individuals or companies in Korea. Once Korea allows the supply of certain of these services, it may not subsequently prohibit or limit the supply of such services.

¹⁴ As of March 2007, securities issued in the territory of Korea are denominated solely in Korean won, except in extraordinary circumstances. Where bonds issued outside the territory of Korea are held by a Korean collective investment scheme registered with the Financial Supervisory Commission, appraisal of the bond must be undertaken by a bond appraisal company in the territory of Korea.

自本协议生效之日起数年；以及

- (c) 咨询及其他辅助服务（不包括中介），涉及第13.20条金融服务定义第(p)项所述的银行及其他金融服务。此项承诺适用于对韩国发行的证券¹⁴ 提供的信用评级、信用参考与调查、一般基金管理、间接投资工具评估及债券评估服务，但仅限于韩国允许就此类资产提供上述服务的范围内。此项承诺不适用于：(i) 对韩国企业的信用评级；或(ii) 为韩国境内针对韩国个人或公司的贷款及其他金融交易目的而进行的信用参考与调查。一旦韩国允许提供其中某些服务，则不得随后禁止或限制此类服务的提供。

¹⁴ 截至2007年3月，韩国境内发行的证券除特殊情况外均以韩元计价。若韩国金融监督委员会注册的韩国集体投资计划持有韩国境外发行的债券，则该债券评估须由韩国境内的债券评估公司进行。

ANNEX 13-B
SPECIFIC COMMITMENTS

SECTION A: PORTFOLIO MANAGEMENT

United States

1. The United States shall allow a financial institution organized outside its territory to provide the following services to a collective investment scheme located in its territory:

- (a) investment advice; and
- (b) portfolio management services, excluding
 - (i) trustee services; and
 - (ii) custodial services¹⁵ and execution services, that are not related to managing a collective investment scheme.

2. For greater certainty, paragraph 1 is subject to Articles 13.1 and 13.5.3.

3. For purposes of paragraph 1, **collective investment scheme** means an investment company registered with the Securities and Exchange Commission under the *Investment Company Act of 1940*.

Korea

4. Korea shall allow a financial institution organized outside its territory to provide investment advice and portfolio management services to the manager of a collective investment scheme located in its territory, provided that the scope of the services does not include:

- (a) trustee services;
- (b) custodial services; and
- (c) execution services that are not related to managing a collective investment scheme.

This paragraph applies to the supply of investment advice or portfolio management services with regard to won-denominated assets only to the extent that Korea allows the supply of these services with respect to such assets. Once Korea allows the supply of certain of these

¹⁵ Custodial services are included in paragraph 1 only with respect to investments for which the primary market is outside the territory of the United States.

附件13-B 具体承诺

A部分：投资组合管理

美国

1. 美国应允许在其领土外组建的金融机构向位于其领土内的集体投资计划提供以下服务：

(a) 投资建议；及 (b) 投资组合管理服务，不包括 (i) 信托服务；及 (ii) 与集体投资计划管理无关的托管服务¹⁵ 和执行服务。

2. 为进一步明确，第1款受第13.1条和第13.5.3条约束。

3. 就第1款而言，集体投资计划指根据《1940年投资公司法》在证券交易委员会注册的投资公司。

韩国

4. 韩国应允许在其领土外组建的金融机构向位于其领土内的集体投资计划管理人提供投资建议和投资组合管理服务，前提是该服务的范围不包括：

(a) 信托服务；(b) 托管服务；及(c) 与集体投资计划管理无关的执行服务。

本段落仅适用于韩国允许提供关于以韩元计价的资产的投资建议或投资组合管理服务的情况。一旦韩国允许提供某些此类

¹⁵ 托管服务仅针对主要市场在美国领土以外的投资被纳入第1款。

services with regard to Korean won-denominated assets, it may not subsequently prohibit or limit the supply of such services. Korea will consult with the United States with respect to the liberalization of these services no later than two years after the date this Agreement enters into force.

5. For greater certainty, paragraph 4 is subject to Articles 13.1 and 13.5.3.
6. For purposes of paragraph 4, **collective investment scheme** means:

(a) an investment trust reported to the Financial Supervisory Commission (FSC) pursuant to the *Indirect Investment Asset Management Business Act* (IIAMB Act); and

(b) an investment company registered with the FSC pursuant to the IIAMB Act.

SECTION B: TRANSFER OF INFORMATION

Each Party shall allow a financial institution of the other Party to transfer information in electronic or other form, into and out of its territory, for data processing where such processing is required in the institution’s ordinary course of business. Korea shall give effect to this commitment no later than two years after the date this Agreement enters into force.

SECTION C: PERFORMANCE OF FUNCTIONS

1. The Parties recognize the benefits of allowing a financial institution in a Party's territory to perform certain functions at its head office or affiliates located inside or outside the Party’s territory. To the extent practicable, each Party should allow such an office or affiliate to perform these functions.

These functions generally include, but are not limited to:

- (a) trade and transaction processing functions, including confirmation and statement production;

(b) technology-related functions, such as data processing,¹⁶ programming, and system development;

(c) administrative services, including procurement, travel arrangements, mailing services, physical security, office space management, and secretarial services;

(d) human resource activities, including training and education;

¹⁶ To the extent that a Party is obligated under Section B of Annex 13-B to allow the transfer of information outside its territory, that Party shall also allow data processing of that information after the transfer.

关于韩元计价资产的服务，则不得随后禁止或限制此类服务的提供。韩国将在本协议生效之日起不迟于两年内与美国就这些服务的自由化进行磋商。

5. 为明确起见，第4款受第13.1条和第13.5条约束.3.
6. 就第4款而言，集体投资计划指：

- (a) 根据《间接投资资产管理业务法》（IIAMB法）向金融监督委员会（FSC）报告的投资信托；及
- (b) 根据IIAMB法在金融监督委员会（FSC）注册的投资公司。

B部分：信息传输

每一缔约方应允许另一缔约方的金融机构为数据处理之目的，以电子或其他形式将信息传入或传出其领土，前提是该处理为该机构日常业务所需。韩国应在本协议生效之日起不迟于两年内履行此项承诺。

C部分：职能履行

1. 双方认识到允许一缔约方领土内的金融机构在其总部或位于该缔约方领土内外的附属机构履行某些职能的益处。在可行范围内，每一缔约方应允许此类总部或附属机构履行这些职能。

这些职能通常包括但不限于：

- (a) 贸易和交易处理职能，包括确认和报表生成；(b) 技术相关职能，如数据处理、¹⁶ 编程和系统开发；(c) 行政服务，包括采购、旅行安排、邮寄服务、物理安全、办公空间管理和秘书服务；(d) 人力资源活动，包括培训和教育；

¹⁶ 若一缔约方根据附件13-B的B节有义务允许信息传输至其领土之外，则该缔约方还应允许该信息在传输后进行数据处理。

(e) accounting functions, including bank reconciliation, budgeting, payroll, tax, account reconciliation, and customer and proprietary accounting; and

(f) legal functions, including the provision of advice and litigation strategy.

2. Nothing in paragraph 1 prevents a Party from requiring a financial institution located in its territory to retain certain functions.

3. For greater certainty, a financial institution located in the territory of a Party retains ultimate responsibility for compliance with requirements applicable to those functions performed by its head office or affiliate.

SECTION D: TRANSPARENCY

The United States welcomes Korea’s ongoing initiative to expand and enhance transparency, noting in particular the adoption by the FSS of the *Operational Rule on Administrative Guidance* and the introduction of the no-action letter mechanism. Korea shall, to the extent practicable, continue its existing practice of issuing in writing any administrative guidance to a financial institution or cross-border financial services supplier. At the request of an affected party, Korea shall put any oral administrative guidance provided into writing and post it on a public Internet site. During any review of previously issued administrative guidance, Korea shall provide interested parties an opportunity to comment on that guidance.

SECTION E: INSURANCE COMPLAINT METHODS AND PROCEDURES

Each Party should ensure that its system for public disclosure of data on complaints filed with regard to insurance suppliers fairly takes into account the relative size of such suppliers. Each Party shall ensure that aggregate complaint information is provided in a transparent manner, such as in a complaint index ratio format, grade format, or other reasonable format and include well documented definitions and explanations of calculation methodology. Any public disclosure of the number of complaints filed with respect to an insurance supplier should also disclose the number of such complaints that the authorities found to be valid.

SECTION F: SECTORAL COOPERATIVES SELLING INSURANCE

1. The regulation of insurance services supplied by a sectoral cooperative should not provide the cooperative a competitive advantage over private suppliers of like insurance services. To the extent practicable, a Party should apply the same rules to services supplied by such cooperatives that it applies to like services supplied by private insurers.

2. To this end, the FSC should exercise regulatory oversight over services supplied by sectoral cooperatives. At a minimum, Korea shall provide that no later than three years after the date this Agreement enters into force, solvency matters related to the sale of insurance

(e) 会计职能，包括银行对账、预算编制、工资单、税务、账户对账以及客户及专有会计；及 (f) 法律职能，包括提供建议和诉讼策略。

2. 第1款中的任何规定均不妨碍一缔约方要求位于其领土内的金融机构保留某些职能。

3. 为进一步明确，位于一缔约方领土内的金融机构对其总部或附属机构所执行职能的合规要求承担最终责任。

D节：透明度

美国欢迎韩国正在推进的扩大和提升透明度的举措，特别注意到金融监督院通过了《行政指导操作规则》并引入了无行动函机制。韩国应在可行范围内，继续其现行做法，即以书面形式向金融机构或跨境金融服务供应商发布任何行政指导。应受影响方的请求，韩国应将提供的口头行政指导转化为书面形式，并公布在公共互联网网站上。在对先前发布的行政指导进行任何审查时，韩国应向相关方提供对该指导发表意见的机会。

E节：保险投诉方法与程序

每一缔约方应确保其关于保险供应商投诉数据的公众披露系统公平考虑此类供应商的相对规模。每一缔约方应确保以透明方式提供汇总投诉信息，例如采用投诉指数比率格式、等级格式或其他合理格式，并包含有详细记录的计算方法定义和说明。任何关于保险供应商投诉数量的公众披露也应披露当局认定有效的此类投诉数量。

SECTION F: SECTORAL COOPERATIVES SELLING INSURANCE

1. 对行业合作社提供的保险服务的监管不应使合作社相对于提供类似保险服务的私营供应商获得竞争优势。在可行范围内，缔约方应对此类合作社提供的服务适用与私人保险公司提供的类似服务相同的规则。

2. 为此，金融监督委员会应对行业合作社提供的服务行使监管监督。韩国至少应规定，在本协议生效之日起三年内，与销售保险相关的偿付能力事项

by the National Agricultural Cooperative Federation, the National Federation of Fisheries Cooperatives, the Korea Federation of Community Credit Cooperatives, and the National Credit Union Federation of Korea shall be subject to regulation by the FSC.

3. The Insurance Working Group established in Annex 13-C shall address the need for additional steps to achieve the objectives set out in paragraphs 1 and 2.

SECTION G: SUPERVISORY COOPERATION

The Parties support the efforts of their respective financial regulators to provide assistance to the regulators of the other Party to enhance consumer protection and those regulators’ ability to prevent, detect, and prosecute unfair and deceptive practices. Each Party confirms that its financial regulators have the legal authority to exchange information in support of those efforts. The Parties encourage financial regulators to continue their ongoing efforts to strengthen this cooperation through bilateral consultations or bilateral or multilateral international cooperative mechanisms, such as memoranda of understanding or ad hoc undertakings.

SECTION H: GOVERNMENT PROCUREMENT

1. Notwithstanding Article 13.1.4, each Party shall apply Articles 13.2. and 13.3 with respect to the acquisition or procurement of the following services to the extent this Chapter applies to measures adopted or maintained by the Party relating to activities or services set out in subparagraphs (a) and (b) of Article 13.1.3:

- (a) services relating to the sale, redemption, and distribution of central government debt;
- (b) services relating to the holding of central government fiscal and depository accounts; and
- (c) services relating to the management of the following assets:
 - (i) in the case of the United States, assets of federal government employees held by the Federal Retirement Thrift Investment Board as a fiduciary; and
 - (ii) in the case of Korea, assets of the Korea Investment Corporation.

2. Korea shall apply Article 13.5.1 with respect to the services described in subparagraph 1(c) (ii) to the extent that the Korea Investment Corporation chooses to acquire or procure those services on a cross-border basis.

SECTION I: EXPEDITED AVAILABILITY OF INSURANCE

The Parties recognize the importance of maintaining and developing regulatory procedures

由全国农业协同组合联合会、全国渔业协同组合联合会、韩国社区信用协同组合联合会及韩国信用联盟联合会开展的保险销售行为，须接受金融监督委员会的监管。

3. 附件13-C设立的保险工作组应处理为实现第1款和第2款所述目标所需的额外步骤。

G部分：监管合作

双方支持各自金融监管机构为对方监管机构提供协助，以加强消费者保护及提升这些监管机构预防、发现和惩处不公平和欺骗性行为的能力。每一缔约方确认其金融监管机构拥有法律权限交换信息以支持这些努力。双方鼓励金融监管机构通过双边磋商或双边及多边国际合作机制（如谅解备忘录或临时承诺）继续加强此类合作。

H部分：政府采购

1. 尽管有第十三条第一款第4项的规定，每一缔约方应在本章适用于其采取或维持的与第十三条第一款第3项(a)和(b)目所述活动或服务相关措施的范围内，对下列服务的收购或采购适用第十三条第二款和13.3的规定：

- (a) 与中央政府债务的销售、赎回和分配相关的服务；(b) 与中央政府财政和存款账户持有相关的服务；以及(c) 与以下资产的管理相关的服务：(i) 在美国的情况下，联邦退休储蓄投资委员会作为受托人持有的联邦政府雇员资产；以及(ii) 在韩国的情况下，韩国投资公司的资产。

2. 对于第1款(c)项(ii)目所述的服务，韩国应在韩国投资公司选择以跨境基础获取或采购这些服务的范围内适用第13.5.1条。

I部分：保险的快速可用性

双方认识到维持和发展监管程序的重要性

to expedite the offering of insurance services by licensed suppliers.

Korea

1. The United States welcomes Korea’s plan to adopt policies and procedures based on a negative list approach¹⁷ to the product filing process no later than one year after the date this Agreement enters into force. Korea requires prior product filing before the introduction of a new insurance product except in cases where the product satisfies criteria¹⁸ set forth by the FSC in the *Regulation on Supervision of Insurance Business*. Section 8 of this regulation establishes the review period for products filed with the FSS. Korea requires product filing for all Bancassurance products.

United States

2. Recognizing the principles of federalism under the U.S. Constitution, the history of state regulation of insurance in the United States, and the *McCarran-Ferguson Act*, the United States welcomes the efforts of the National Association of Insurance Commissioners (NAIC) relating to the availability of insurance services as expressed in the NAIC’s “Statement of Intent: The Future of Insurance Regulation,” including the initiatives on speed-to-market intentions and regulatory re-engineering provided under Part II of the Statement of Intent.

¹⁷ For purposes of paragraph 1, adoption of a negative list approach in this context means developing a list of specific procedures or products that are subject to product filing. For greater certainty, procedures or products not on the list would not require prior product filing.

¹⁸ The criteria referred to in paragraph 1 include, among others: whether risk rates already reported are used or only minimal adjustments are made from assumed interest rate or cost; whether the premium rate has changed; whether reinsurers’ premium rates are used due to a shortage in domestic statistics; whether insurance employs assumed interest rates and its reported risk rates are used without change or with only minimal change; and whether policy certificates or the policy application form is being amended with minimal change.

以加快持牌供应商提供保险服务的速度。

韩国

1. 美国欢迎韩国计划在本协议生效之日起不迟于一年内，采用基于负面清单方法¹⁷ 的产品备案流程的政策和程序。韩国要求在推出新的保险产品之前进行产品备案，除非该产品符合金融监督委员会在《保险业务监督条例》中规定的标准¹⁸。该条例第8条规定了向金融监督院提交产品的审查期限。韩国要求所有银行保险产品均需进行产品备案。

美国

2. 鉴于美国宪法下的联邦主义原则、美国各州保险监管的历史以及麦卡伦-弗格森法案，美国欢迎美国保险监督官协会（NAIC）在保险服务可获得性方面所做的努力，正如NAIC的《意向声明：保险监管的未来》中所表述的那样，包括该意向声明第二部分提出的快速上市意向和监管重构举措。

¹⁷ 就第1段而言，在此背景下采用负面清单方法意味着制定一份需要产品备案的具体程序或产品清单。为更加明确，不在清单上的程序或产品将无需事先进行产品备案。¹⁸ 第1段中提到的标准包括但不限于：是否使用了已报告的风险费率，或仅对假定利率或成本进行了最小调整；保险费率是否发生变化；是否因国内统计数据不足而使用了再保险公司的保险费率；保险是否采用假定利率且其报告的风险费率未作更改或仅作最小更改；以及保单证书或保单申请表是否仅作最小修改。

ANNEX 13-C
FINANCIAL SERVICES COMMITTEE

Authorities Responsible for Financial Services

1. The authorities responsible for financial services are:
- (a) for Korea, the Ministry of Finance and Economy; and
 - (b) for the United States, the Department of the Treasury for banking and other financial services and the Office of the United States Trade Representative, in coordination with the Department of Commerce and other agencies, for insurance.

Elaboration of the Agenda of the Financial Services Committee

2. The Parties anticipate discussing a range of issues in the Financial Services Committee, including measures adopted or maintained by central and regional levels of government that affect the supply of financial services by financial institutions or financial service suppliers of either Party. Before any meeting of the Committee, the authorities specified in paragraph 1 will provide their counterparts with a list of financial services issues for the Committee’s consideration, including any concerns of financial institutions or financial service suppliers that a Party chooses to raise.

Insurance Working Group

3. The Parties recognize the importance of discussions between their respective insurance regulatory authorities to further cooperation, coordination, and mutual understanding of issues relating to the supply of insurance in their territories. To this end, the Parties hereby establish an Insurance Working Group comprising relevant officials of each Party’s financial services regulatory structure. The Working Group shall address transparency; actions necessary to ensure competitive equality between Korea Post, sectoral cooperatives selling insurance, and private insurers; financial supervision, including regulations at the central and regional levels of government, the development, adoption, and review of changes in policy; the different regulatory structures of the Parties; and other issues of mutual interest. Unless the Parties otherwise agree, the Working Group shall meet once each year after the date this Agreement enters into force, and each Party shall select, the meeting location every other year. The Working Group shall inform the Joint Committee of the results of each meeting in accordance with Article 13.16, unless the Parties otherwise agree.

附件13-C 金融服务委员会

负责金融服务的当局

1. 负责金融服务的当局为：
- (a) 韩国方面为财政经济部；及 (b) 美国方面，银行业及其他金融服务由财政部负责，保险业由美国贸易代表办公室协同商务部及其他机构负责。

金融服务委员会议程的详细说明

2. 双方预期将在金融服务委员会中讨论一系列议题，包括中央和地方政府采取的、影响任一缔约方金融机构或金融服务供应商提供金融服务的措施。在委员会任何会议之前，第1款中指定的当局将向对方提供一份金融服务议题清单供委员会审议，包括缔约方选择提出的金融机构或金融服务供应商的任何关切。

保险工作组

3. 缔约方认识到双方保险监管机构之间就各自领土内保险供应相关问题进行讨论的重要性，以促进合作、协调与相互理解。为此，缔约方特此设立一个保险工作组，由各方金融服务监管结构的相关官员组成。工作组应处理透明度问题；确保韩国邮政、销售保险的行业合作社与私人保险公司之间竞争平等所需的行动；金融监管，包括中央和地方政府的法规、政策的制定、采纳和审查变更；缔约方的不同监管结构；以及其他共同利益问题。除非缔约方另有约定，工作组应在本协议生效后每年召开一次会议，并由各方轮流选定会议地点。除非缔约方另有约定，工作组应根据第13.16条向联合委员会通报每次会议的结果。

ANNEX 13-D
SUPPLY OF INSURANCE BY THE POSTAL SERVICES TO THE PUBLIC

1. The regulation of insurance services supplied by Korea Post to the public should not accord Korea Post a competitive advantage over private service suppliers of like insurance services in the territory of Korea.
2. To this end, Korea should, to the extent practicable, provide that the FSC exercise regulatory oversight over the insurance services supplied by Korea Post to the public and that those services be subject to the same rules applicable to private suppliers supplying like insurance services in its territory.
3. The letter exchange regarding these services sets out commitments with regard to insurance services supplied by Korea Post to the public.

附件13-D 邮政服务向公众提供保险

1. 对韩国邮政向公众提供的保险服务的监管，不应使韩国邮政在韩国境内相对于提供同类保险服务的私营服务供应商获得竞争优势。
2. 为此，韩国应在可行范围内确保金融监督委员会对韩国邮政向公众提供的保险服务实施监管监督，并确保这些服务遵守适用于其领土内私营供应商提供类似保险服务的相同规则。
3. 关于这些服务的信函交换列出了韩国邮政向公众提供的保险服务的承诺。

June 30, 2007

2007年6月30日

The Honorable Hyun Chong Kim
Minister for Trade
Seoul, Republic of Korea

Sung Jin Kim
Deputy Minster
Ministry of Finance and Economy
Gwacheon, Republic of Korea

Dear Minister Kim and Deputy Minister Kim:

We have the honor to confirm the following understanding reached between the delegations of the United States of America and the Republic of Korea during the course of negotiations regarding Chapter Thirteen (Financial Services) of the Free Trade Agreement between our two Governments signed this day:

Cross-Border Trade

The Parties confirm that, with respect to cross-border trade in financial services, and without prejudice to other means of prudential regulation, a Party may require the registration or authorization of cross-border financial services suppliers of the other Party and of financial instruments.

The Parties further confirm that a Party may require a cross-border financial service supplier of the other Party to provide information, solely for informational or statistical purposes, on the financial services it has supplied within the territory of the Party. The Party shall protect such business information that is confidential from any disclosure that would prejudice the competitive position of the supplier.

New Financial Services

The Parties recognize the importance of accommodating new financial services in their markets consistent with prudential requirements. The Parties confirm that Article 13.6 (New Financial Services) does not apply to (1) cross-border trade in financial services or (2) any new financial service that the Party would not permit its own financial institutions, in like circumstances, to supply.

The Parties further confirm that a Party may apply prudential regulations to new financial services.

尊敬的玄正金贸易部长首尔，
大韩民国

韩国财政经济部副部长 金成珍
大韩民国果川

尊敬的金部长及金副部长：

我们荣幸地确认，美利坚合众国与大韩民国代表团在关于今日签署的两国政府间《自由贸易协定》第十三章（金融服务）的谈判过程中达成如下谅解：

跨境贸易

双方确认，在跨境金融服务贸易方面，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注册或授权。

双方进一步确认，一缔约方可要求另一缔约方的跨境金融服务供应商提供其在该缔约方领土内提供的金融服务信息，仅用于信息或统计目的。该缔约方应保护此类机密商业信息，避免任何可能损害供应商竞争地位的披露。

新金融服务

双方认识到在符合审慎要求的前提下，在其市场中接纳新金融服务的重要性。双方确认第13.6条（新金融服务）不适用于（1）跨境金融服务贸易或（2）该缔约方在类似情况下不允许其自身金融机构提供的任何新金融服务。

双方进一步确认，缔约方可对新金融服务实施审慎规定。

Transparency

The Parties discussed the application and licensing requirements set forth in Article 13.11.9 (Transparency) and agree that each Party’s current practices are consistent with that Article. Korea has confirmed that the 120-day period in Article 13.11.9 does not include periods during which the applicants are engaged in efforts to meet regulatory requirements for the relevant license. In the case of insurance, Korea’s current practice is to make a preliminary decision on an application within 90 days and to make a final decision no later than 60 days after it receives the completed application. Korea expressed its intention not to extend the existing 90-day limitation for making a preliminary decision on an application to supply insurance services.

Self-Regulatory Organizations

The Parties confirm that the Korea Insurance Development Institute is a self-regulatory organization as defined in Chapter Thirteen (Financial Services) and is subject to the disciplines of Article 13.12 (Self Regulatory Organizations). This confirmation is without prejudice to the status of any other organization in this or any other financial services subsector.

For greater certainty, if the FSC or the Financial Supervisory Service (FSS) delegates a function related to insurance to a self-regulatory organization or other non-governmental body, the FSC or FSS shall take reasonable steps to ensure compliance with Article 13.11.3 (Transparency) and Article 21.4 (Review and Appeal) with regard to any actions taken by the organization or other non-governmental body pursuant to the delegated function.

Certain Government Entities

The Parties confirm that the following entities, as currently structured, are covered by Chapter Thirteen, but shall not be considered financial institutions for purposes of that Chapter: Korea Deposit Insurance Corporation (KDIC), Resolution and Finance Corporation, Export-Import Bank of Korea, Korea Export Insurance Corporation, Korea Technology Credit Guarantee Fund, Credit Guarantee Fund, Korea Asset Management Corporation (KAMCO), and Korea Investment Corporation (KIC).

Chief Executive Officer

For greater certainty, nothing in Article 13.8 (Senior Management and Board of Directors) limits a Party's ability to require the chief executive officer of a financial institution established under its laws to reside within its territory.

Transfer of Information

The Parties recognize the importance of the cross-border transfer of information by financial institutions, and the United States welcomes Korea’s commitment in paragraph 6(b) of Annex

透明度

双方就第13.11.9条（透明度）规定的申请与许可要求进行了讨论，并确认各方现行做法均符合该条款规定。韩国已明确，第13.11.9条中的120天期限不包含申请人努力满足相关许可监管要求的阶段。就保险服务而言，韩国现行做法是在90天内对申请作出初步决定，并在收到完整申请后不迟于60天内作出最终决定。韩国表示无意延长现行对保险服务供应申请作出初步决定的90天限制期限。

自律组织

双方确认，韩国保险发展研究院是第十三章（金融服务）定义的自律组织，并受第13.12条（自律组织）纪律约束。此项确认不影响本章或其他任何金融服务分部门中任何其他组织的地位。

为进一步明确，若金融监督委员会或金融监督院（FSS）将保险相关职能委托给自律组织或其他非政府机构，则金融监督委员会或金融监督院应采取合理措施，确保该组织或其他非政府机构在履行受托职能时采取的任何行动符合第13.11.3条（透明度）和第21.4条（审查和上诉）的规定。

特定政府实体

双方确认，以下实体按现行架构属于第十三章涵盖范围，但就本章目的而言不应被视为金融机构：韩国存款保险公司（KDIC）、决议与金融公司、韩国进出口银行、韩国出口保险公司、韩国技术信用担保基金、信用担保基金、韩国资产管理公司（KAMCO）及韩国投资公司（KIC）。

首席执行官

为进一步明确，第13.8条（高级管理层和董事会）中任何规定均不限制缔约方要求依据其法律设立的金融机构的首席执行官居住在其领土内的权利。

信息传输

双方认识到金融机构跨境信息传输的重要性，美国欢迎韩国在附件13-A第6(b)段和附件13-B的B节中承诺对其监管制度进行修改，以允许这些机构传输此类信息。

13-A and Section B of Annex 13-B to undertake modifications to its regulatory regime that will permit those institutions to transfer such information. Korea has expressed its intent that these modifications will result in its adoption of approaches that are similar to those of the United States with respect to such areas as the protection of sensitive information of consumers, prohibitions on unauthorized reuse of the sensitive information, the ability of financial regulators to have access to records of financial institutions relating to the handling of such information, and requirements for the location of technology facilities.

Financial Services Initiatives

Recognizing the positive steps Korea is taking as a part of its strategy to establish itself as a regional financial hub in East Asia, the United States welcomes three key regulatory initiatives of Korea currently underway:

- (a) the movement to a negative regulatory approach in the financial services sector;
- (b) implementation of Phase II of the Bancassurance regulations; and
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Korea welcomes progress by the National Association of Insurance Commissioners on its review of collateral requirements for suppliers of reinsurance. The NAIC will consider adopting changes to its Model Law in 2007. The United States will provide updates to Korea on this process in the FSC.

Supply of Insurance by the Postal Services to the Public

1. The United States and Korea recognize that Korea Post is currently a government agency that is not regulated as a financial institution.

韩国已表示其意图是，这些修改将使其在消费者敏感信息保护、禁止未经授权重复使用敏感信息、金融监管机构能够获取金融机构处理此类信息的记录以及技术设施位置要求等领域采取与美国类似的做法。

金融服务倡议

美国认可韩国作为东亚区域金融中心战略的一部分所采取的积极举措，并欢迎韩国当前正在推进的三项关键监管倡议：

- (a) 金融服务部门转向负面监管方法；(b) 实施银行保险法规第二阶段；(c) 进一步放宽保险服务供应中的外币准备金要求。

韩国认可美国在产品审批系统方面取得的积极进展，并欢迎美国在保险领域电子产品审批备案程序方面引入的效率提升措施，特别是：

- (a) 美国所有地方政府均采用美国保险监督官协会的电子费率与表格备案系统，截至2005年底已累计处理约185,000份电子备案；(b) 二十九 个州已采纳州际保险协议，允许产品监管委员会作为唯一审批机构对人寿保险、年金、长期护理及残疾收入领域的产品进行审批。

韩国欢迎美国保险监督官协会在审查再保险供应商的抵押品要求方面取得的进展。美国保险监督官协会将于2007年考虑对其示范法进行修改。美国将通过金融监督委员会向韩国提供这一进程的最新情况。

邮政服务向公众提供保险

1. 美国和韩国承认韩国邮政目前是一个政府机构，并未作为金融机构受到监管。

2. The FSC shall:
- (a) nominate at least half of the members of the Postal Finance Risk Management Committee and the Reserve Operation Deliberation Committee responsible for oversight of Korea Post’s supply of insurance services;
 - (b) review any financial statements, settlement documents, or other information submitted to it by Korea Post with regard to insurance services supplied by Korea Post and, to the extent this review reveals any deficiencies, issue an opinion to that effect to Korea Post; and
 - (c) review the basic documents submitted to it by Korea Post related to insurance products supplied by Korea Post, including business operation manuals, terms and conditions of insurance, insurance premium and policy reserves calculation guidelines, and, if it identifies any deficiencies, issue recommendations with regard to necessary improvements.
3. Korea Post shall:
- (a) submit to the FSC any financial statements, settlement documents and basic documents regarding insurance services supplied by Korea Post;
 - (b) conform its supply of insurance services with any opinion issued by the FSC in accordance with paragraph 2(b);
 - (c) take action on any recommendations regarding basic documents issued by the FSC in accordance with paragraph 2(c);
 - (d) with respect to matters covered by Articles 61(4) and 67(1) of the Standards, obtain confirmation from KIDI or an actuarial firm registered with the FSC in accordance with Article 183 of the *Insurance Business Act*;
 - (e) in the event that the FSC issues an opinion or recommendation under paragraph 2(b) or 2(c), include the nature of the deficiency in a public notice as provided for in Article 64 of the Standards; and
 - (f) appoint the persons nominated by the FSC in accordance with paragraph 2(a) to be members of the committees for which the FSC nominates them.
4. In the event that Korea Post issues product-specific advertisements related to its insurance services, such advertisements shall be subject to the same approval requirements applicable to private suppliers of insurance services.

2. 金融监督委员会应：
- (a) 提名邮政金融风险管理委员会及负责监督韩国邮政保险服务供应的储备运营审议委员会至少半数成员；
 - (b) 审查韩国邮政提交的与其提供的保险服务相关的财务报表、结算文件或其他信息，若审查中发现任何缺陷，则向韩国邮政出具相关意见；
 - (c) 审查韩国邮政提交的与其提供的保险产品相关的基本文件，包括业务操作手册、保险条款、保险费及保单准备金计算指南，若发现任何缺陷，则就必要改进措施提出建议。
3. 韩国邮政应：
- (a) 向金融监督委员会提交韩国邮政提供的保险服务相关的财务报表、结算文件及基本文件；
 - (b) 使其保险服务供应符合金融监督委员会根据第2(b)款出具的意见；
 - (c) 对金融监督委员会根据第2(c)款就基本文件提出的建议采取行动；
 - (d) 对于标准第61(4)条和第67(1)条所涉事项，需获得韩国保险发展研究所或根据保险业法第183条在金融监督委员会注册的精算公司的确认；
 - (e) 若金融监督委员会根据第2(b)款或第2(c)款出具意见或建议，则按标准第64条规定将缺陷性质列入公告；
 - (f) 任命金融监督委员会根据第2(a)款提名的人员担任其被提名委员会的成员。
4. 如韩国邮政发布与其保险服务相关的产品特定广告，此类广告应遵守与私营保险服务供应商相同的审批要求。

5. Korea Post shall not issue new products, including variable life insurance, non-life insurance, and retirement insurance. Korea Post may modify¹ existing products. In the event that it does so, the FSC shall issue its recommendation under paragraph 2(c) within the period provided under Section 8 of the *Regulation on Supervision of Insurance Business*. Before increasing the value limitation on the sale of an insurance product, Korea Post shall consult with the FSC, which shall provide public notice of the proposed increase and an opportunity for public comment. The FSC shall issue an opinion with regard to the proposed increase, which shall be favorable only if the increase is no more than the amount necessary to reflect inflation, and otherwise necessary and appropriate. Korea Post shall conform its actions to that opinion.
6. At the request of either Party, the Insurance Working Group established in Annex 13-C (Financial Services Committee) shall discuss issues related to insurance services supplied by Korea Post, including additional steps that may be necessary to achieve the objectives of Annex 13-D (Supply of Insurance by the Postal Services to the Public) and this letter.
7. For purposes of this letter:
- (a) **FSC** means the Financial Supervisory Commission or any successor agency;
- (b) **KIDI** means the Korea Insurance Development Institute or any successor institution; and
- (c) **Standards** means Korea Post’s Notification No. 2006-18, entitled “Standards for Sound Management of Postal Savings and Insurance.”
8. Paragraphs 2, 3, and 4 shall become effective two years after the date this Agreement enters into force. If Korea Post ceases to supply insurance services to the public as a government agency, the Parties shall consult as to how to modify paragraphs 1 through 7.

We have the honor to propose that this letter and your letter in reply confirming that your Government shares this understanding shall constitute an integral part of the Free Trade Agreement.

Sincerely,

Susan C. Schwab
United States Trade Representative

Clay Lowery
Acting Under Secretary for International Affairs
U.S. Department of Treasury

¹ For purposes of paragraph 5, modify includes to change terms and conditions as necessary to conform to insurance industry best practices or to conform to opinions or recommendations of the FSC. Modify does not include adding supplemental coverage in a manner equivalent to the creation of a new product line. New product line means insurance products covering risks other than those currently covered. Modify also does not include changing terms and conditions in a manner equivalent to the creation of a new product.

5. 韩国邮政不得发行包括变额人寿保险、非人寿保险和退休保险在内的新产品。韩国邮政可¹ 修改现有产品。若进行修改，金融监督委员会应根据《保险业务监督条例》第8条规定的期限，按照第2款(c)项提出建议。在提高保险产品销售价值限额前，韩国邮政应与金融监督委员会协商，后者应就拟议的提高发布公告并提供公众评议机会。金融监督委员会应对拟议的提高出具意见，仅当提高幅度不超过反映通胀所需的金额且确属必要适当时，该意见方可为肯定性。韩国邮政应依该意见行事。
6. 应任一缔约方请求，附件13-C（金融服务委员会）设立的保险工作组应讨论韩国邮政提供的保险服务相关问题，包括为实现附件13-D（邮政服务向公众提供保险）及本函目标可能需采取的额外步骤。
7. 就本函而言：
- (a) FSC指金融监督委员会或其任何继任代理；(b) KIDI指韩国保险发展研究院或其任何继任机构；(c) 《标准》指韩国邮政2006-18号通知，标题为《邮政储蓄和保险稳健管理标准》。
8. 第2、3、4款应在本协议生效之日起两年后生效。若韩国邮政不再作为政府机构向公众提供保险服务，双方应协商如何修改第1至7款。

我们谨提议，本函及贵方回函确认贵国政府认同此理解，应构成《自由贸易协定》的组成部分。

此致，

苏珊·C·施瓦布
美国贸易代表

克莱·洛厄里
国际事务代理副部长 美国财政部

¹ 就第5段而言，“修改”包括根据需要更改条款和条件，以符合保险行业最佳实践或符合金融监督委员会的意见或建议。“修改”不包括以相当于创建新产品线的方式增加补充保险。“新产品线”指涵盖当前未涵盖风险的保险产品。“修改”也不包括以相当于创建新产品的方式更改条款和条件。

[TRANSLATION]

June 30, 2007

The Honorable Susan C. Schwab
United States Trade Representative
Washington, D.C.

Clay Lowery
Acting Under Secretary for International Affairs
U.S. Department of Treasury
Washington, D.C.

Dear Ambassador Schwab and Mr. Lowery:

We have the honor to acknowledge receipt of your letter of this date, which reads as follows:

We have the honor to confirm the following understanding reached between the delegations of the United States of America and the Republic of Korea during the course of negotiations regarding Chapter Thirteen (Financial Services) of the Free Trade Agreement between our two Governments signed this day:

Cross-Border Trade

The Parties confirm that, with respect to cross-border trade in financial services, and without prejudice to other means of prudential regulation, a Party may require the registration or authorization of cross-border financial services suppliers of the other Party and of financial instruments.

The Parties further confirm that a Party may require a cross-border financial service supplier of the other Party to provide information, solely for informational or statistical purposes, on the financial services it has supplied within the territory of the Party. The Party shall protect such business information that is confidential from any disclosure that would prejudice the competitive position of the supplier.

New Financial Services

The Parties recognize the importance of accommodating new financial services in their markets consistent with prudential requirements. The Parties confirm that Article 13.6 (New Financial Services) does not apply to (1) cross-border trade in financial services or (2) any new financial service that the Party would not permit its own financial institutions, in like circumstances, to supply.

The Parties further confirm that a Party may apply prudential regulations to new financial services.

[翻译]

2007年6月30日

尊敬的苏珊·C·施瓦布 美国贸易
代表 华盛顿特区

克莱·洛厄里 美国财政部国际事务代理副部
长 华盛顿特区

尊敬的施瓦布大使及洛厄里先生：

我们谨此 确认收到您今日来函，内容如下：

我们荣幸地确认，美利坚合众国与大韩民国代表团在关于今日签署的两国政府间《自由贸易协定》第十三章（金融服务）的谈判过程中达成如下谅解：

跨境贸易

双方确认，在跨境金融服务贸易方面，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注册或授权。

双方进一步确认，一缔约方可要求另一缔约方的跨境金融服务供应商提供其在该缔约方领土内所提供金融服务的信息，该等信息仅用于信息或统计目的。该缔约方应保护此类机密商业信息，避免任何可能损害供应商竞争地位的披露。

新金融服务

双方认识到在符合审慎要求的前提下，允许新金融服务进入各自市场的重要性。双方确认第13.6条（新金融服务）不适用于（1）跨境金融服务贸易，或（2）缔约方在类似情况下不允许其本国金融机构提供的任何新金融服务。

双方进一步确认，缔约方可对新金融服务适用审慎规定。

Transparency

The Parties discussed the application and licensing requirements set forth in Article 13.11.9 (Transparency) and agree that each Party’s current practices are consistent with that Article. Korea has confirmed that the 120-day period in Article 13.11.9 does not include periods during which the applicants are engaged in efforts to meet regulatory requirements for the relevant license. In the case of insurance, Korea’s current practice is to make a preliminary decision on an application within 90 days and to make a final decision no later than 60 days after it receives the completed application. Korea expressed its intention not to extend the existing 90-day limitation for making a preliminary decision on an application to supply insurance services.

Self-Regulatory Organizations

The Parties confirm that the Korea Insurance Development Institute is a self-regulatory organization as defined in Chapter Thirteen (Financial Services) and is subject to the disciplines of Article 13.12 (Self Regulatory Organizations). This confirmation is without prejudice to the status of any other organization in this or any other financial services subsector.

For greater certainty, if the FSC or the Financial Supervisory Service (FSS) delegates a function related to insurance to a self-regulatory organization or other non-governmental body, the FSC or FSS shall take reasonable steps to ensure compliance with Article 13.11.3 (Transparency) and Article 21.4 (Review and Appeal) with regard to any actions taken by the organization or other non-governmental body pursuant to the delegated function.

Certain Government Entities

The Parties confirm that the following entities, as currently structured, are covered by Chapter Thirteen, but shall not be considered financial institutions for purposes of that Chapter: Korea Deposit Insurance Corporation (KDIC), Resolution and Finance Corporation, Export-Import Bank of Korea, Korea Export Insurance Corporation, Korea Technology Credit Guarantee Fund, Credit Guarantee Fund, Korea Asset Management Corporation (KAMCO), and Korea Investment Corporation (KIC).

Chief Executive Officer

For greater certainty, nothing in Article 13.8 (Senior Management and Board of Directors) limits a Party's ability to require the chief executive officer of a financial institution established under its laws to reside within its territory.

透明度

双方讨论了第13.11.9条（透明度）中规定的申请和许可要求，并同意各缔约方当前的做法与该条款一致。韩国已确认，第13.11.9条中的120天期限不包括申请人努力满足相关许可监管要求的期间。在保险方面，韩国当前的做法是在90天内对申请作出初步决定，并在收到完整的申请后不迟于60天内作出最终决定。韩国表示无意延长现有的对提供保险服务的申请作出初步决定的90天限制。

自律组织

双方确认，韩国保险发展研究院是第十三章（金融服务）所定义的自律组织，并受第13.12条（自律组织）纪律约束。此项确认不影响本金融服务分部门或其他任何金融服务分部门中任何其他组织的地位。

为进一步明确，如金融监督委员会或金融监督院（FSS）将保险相关职能委托给自律组织或其他非政府机构，金融监督委员会或金融监督院应采取合理措施，确保该组织或其他非政府机构在履行受托职能时采取的任何行动符合第13.11.3条（透明度）和第21.4条（审查和上诉）的规定。

特定政府实体

双方确认，以下实体按现行架构属于第十三章涵盖范围，但就本章而言不应被视为金融机构：韩国存款保险公司（KDIC）、决议与金融公司、韩国进出口银行、韩国出口保险公司、韩国技术信用担保基金、信用担保基金、韩国资产管理公司（KAMCO）及韩国投资公司（KIC）。

首席执行官

为进一步明确，第13.8条（高级管理层和董事会）中的任何规定均不限制缔约方要求根据其法律设立的金融机构的首席执行官居住在其领土内的能力。

Transfer of Information

The Parties recognize the importance of the cross-border transfer of information by financial institutions, and the United States welcomes Korea’s commitment in paragraph 6(b) of Annex 13-A and Section B of Annex 13-B to undertake modifications to its regulatory regime that will permit those institutions to transfer such information. Korea has expressed its intent that these modifications will result in its adoption of approaches that are similar to those of the United States with respect to such areas as the protection of sensitive information of consumers, prohibitions on unauthorized reuse of the sensitive information, the ability of financial regulators to have access to records of financial institutions relating to the handling of such information, and requirements for the location of technology facilities.

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Recognizing the positive steps Korea is taking as a part of its strategy to establish itself as a regional financial hub in East Asia, the United States welcomes three key regulatory initiatives of Korea currently underway:

- (a) the movement to a negative regulatory approach in the financial services sector;
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- (a) all regional governments of the United States use the National Association of Insurance Commissioners’ System for Electronic Rate & Form Filing, which by the end of 2005 had logged approximately 185,000 electronic filings; and
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Korea welcomes progress by the National Association of Insurance Commissioners on its review of collateral requirements for suppliers of reinsurance. The NAIC will consider adopting changes to its Model Law in 2007. The United States will provide updates to Korea on this process in the FSC.

信息传输

双方认识到金融机构跨境信息传输的重要性，美国欢迎韩国在附件13-A第6(b)段和附件13-B的B节中承诺对其监管制度进行修改，以允许这些机构传输此类信息。韩国已表示其意图，这些修改将使其在消费者敏感信息保护、禁止未经授权重复使用敏感信息、金融监管机构能够获取金融机构处理此类信息的记录以及技术设施位置要求等领域采取与美国类似的做法。

金融服务倡议

美国认可韩国作为其确立东亚区域金融中心战略的一部分所采取的积极举措，并欢迎韩国当前正在推进的三项关键监管倡议：

- (a) 金融服务部门转向负面监管方法；(b) 实施银行保险法规第二阶段；以及(c) 进一步放宽保险服务供应中的外币准备金要求。

韩国认可美国在产品审批系统方面取得的积极进展，并欢迎美国在保险电子产品审批备案程序领域引入的效率提升措施，特别是

- (a) 美国所有地区政府均采用美国保险监督官协会的电子费率与表格备案系统，截至2005年底已累计处理约185,000份电子备案；以及(b) 二十九个州通过了州际保险协议，允许产品监管委员会成为以下领域产品的唯一审批机构：人寿保险、年金、长期护理和残疾收入。

韩国欢迎美国保险监督官协会在审查再保险供应商的抵押品要求方面取得的进展。美国保险监督官协会将于2007年考虑对其示范法进行修改。美国将通过金融监督委员会向韩国提供这一进程的最新情况。

Supply of Insurance by the Postal Services to the Public

1. The United States and Korea recognize that Korea Post is currently a government agency that is not regulated as a financial institution.
2. The FSC shall:
 - (a) nominate at least half of the members of the Postal Finance Risk Management Committee and the Reserve Operation Deliberation Committee responsible for oversight of Korea Post’s supply of insurance services;
 - (b) review any financial statements, settlement documents, or other information submitted to it by Korea Post with regard to insurance services supplied by Korea Post and, to the extent this review reveals any deficiencies, issue an opinion to that effect to Korea Post; and
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3. Korea Post shall:
 - (a) submit to the FSC any financial statements, settlement documents and basic documents regarding insurance services supplied by Korea Post;
 - (b) conform its supply of insurance services with any opinion issued by the FSC in accordance with paragraph 2(b);
 - (c) take action on any recommendations regarding basic documents issued by the FSC in accordance with paragraph 2(c);
 - (d) with respect to matters covered by Articles 61(4) and 67(1) of the Standards, obtain confirmation from KIDI or an actuarial firm registered with the FSC in accordance with Article 183 of the *Insurance Business Act*;
 - (e) in the event that the FSC issues an opinion or recommendation under paragraph 2(b) or 2(c), include the nature of the deficiency in a public notice as provided for in Article 64 of the Standards; and
 - (f) appoint the persons nominated by the FSC in accordance with paragraph 2(a) to be members of the committees for which the FSC nominates them.

邮政服务向公众提供保险

1. 美国和韩国承认，韩国邮政目前是一个不受金融机构监管的政府机构。2. 金融监督委员会应：(a) 提名负责监督韩国邮政保险服务供应的邮政金融风险管理委员会和储备运营审议委员会至少半数成员；(b) 审查韩国邮政提交的与保险服务相关的财务报表、结算文件或其他信息，并在审查中发现任何不足时，向韩国邮政出具意见；(c) 审查韩国邮政提交的与保险产品相关的基本文件，包括业务操作手册、保险条款、保险费和保单准备金计算指南，并在发现任何不足时，就必要的改进提出建议。

3. 韩国邮政应：

(a) 向金融监督委员会提交韩国邮政提供的保险服务的任何财务报表、结算文件及基本文件；(b) 使其保险服务供应符合金融监督委员会根据第2(b)款发布的任何意见；(c) 对金融监督委员会根据第2(c)款就基本文件提出的任何建议采取行动；(d) 关于标准第61(4)条和第67(1)条所涵盖的事项，从韩国保险发展研究所或根据保险业法第183条在金融监督委员会注册的精算公司处获得确认；(e) 若金融监督委员会根据第2(b)款或第2(c)款发布意见或建议，则按照标准第64条的规定，将缺陷性质列入公告；(f) 任命金融监督委员会根据第2(a)款提名的人员为委员会成员，金融监督委员会提名他们担任该职位。

4.

In the event that Korea Post issues product-specific advertisements related to its insurance services, such advertisements shall be subject to the same approval requirements applicable to private suppliers of insurance services.
5.

Korea Post shall not issue new products, including variable life insurance, non-life insurance, and retirement insurance. Korea Post may modify¹ existing products. In the event that it does so, the FSC shall issue its recommendation under paragraph 2(c) within the period provided under Section 8 of the *Regulation on Supervision of Insurance Business*. Before increasing the value limitation on the sale of an insurance product, Korea Post shall consult with the FSC, which shall provide public notice of the proposed increase and an opportunity for public comment. The FSC shall issue an opinion with regard to the proposed increase, which shall be favorable only if the increase is no more than the amount necessary to reflect inflation, and otherwise necessary and appropriate. Korea Post shall conform its actions to that opinion.
6.

At the request of either Party, the Insurance Working Group established in Annex 13-C (Financial Services Committee) shall discuss issues related to insurance services supplied by Korea Post, including additional steps that may be necessary to achieve the objectives of Annex 13-D (Supply of Insurance by the Postal Services to the Public) and this letter.
7.

For purposes of this letter:

(a)

FSC means the Financial Supervisory Commission or any successor agency;

(b)

KIDI means the Korea Insurance Development Institute or any successor institution; and

(c)

Standards means Korea Post’s Notification No. 2006-18, entitled “Standards for Sound Management of Postal Savings and Insurance.”
8.

Paragraphs 2, 3, and 4 shall become effective two years after the date this Agreement enters into force. If Korea Post ceases to supply insurance services to the public as a government agency, the Parties shall consult as to how to modify paragraphs 1 through 7.

We have the honor to propose that this letter and your letter in reply confirming that your Government shares this understanding shall constitute an integral part of the Free Trade Agreement.

¹ For purposes of paragraph 5, modify includes to change terms and conditions as necessary to conform to insurance industry best practices or to conform to opinions or recommendations of the FSC. Modify does not include adding supplemental coverage in a manner equivalent to the creation of a new product line. New product line means insurance products covering risks other than those currently covered. Modify also does not include changing terms and conditions in a manner equivalent to the creation of a new product.

4.

若韩国邮政发布与其保险服务相关的产品特定广告，此类广告应遵守适用于私营保险服务供应商的相同批准要求。
5.

韩国邮政不得发行包括变额人寿保险、非人寿保险及退休保险在内的新产品。韩国邮政可修改¹ 现有产品。若进行此类修改，金融监督委员会应根据《保险业务监督条例》第8条规定的时间期限内，按照第2款(c)项提出建议。在提高保险产品销售价值限额前，韩国邮政应与金融监督委员会协商，后者应就拟议的提高事项发布公告并征求公众意见。金融监督委员会应对拟议的提高事项出具意见，该意见仅在提高幅度不超过反映通胀所需的金额且确属必要适当时方为有利。韩国邮政应遵照该意见行事。
6.

应任一缔约方请求，附件13-C（金融服务委员会）设立的保险工作组应讨论韩国邮政提供的保险服务相关问题，包括为实现附件13-D（邮政服务向公众提供保险）及本函目标可能需采取的额外措施。
7.

就本函而言：

(a)

FSC指金融监督委员会或其任何继任代理；

(b)

KIDI指韩国保险发展研究院或其任何继任机构；

(c)

《标准》指韩国邮政2006-18号通知，标题为《邮政储蓄和保险稳健管理标准》。
8.

第2、3和4款应在本协议生效之日起两年后生效。若韩国邮政不再作为政府机构向公众提供保险服务，双方应协商如何修改第1至7款。

我们荣幸地提议，本函及贵方确认贵国政府认同此理解的复函应构成《自由贸易协定》的组成部分。

¹ 就第5段而言，"修改"包括根据需要变更条款和条件以符合保险行业最佳实践或遵循金融监督委员会的意见或建议。"修改"不包括以等同于创建新产品线的方式增加补充保险。"新产品线"指承保当前未涵盖风险的保险产品。"修改"也不包括以等同于创建新产品的方式变更条款和条件。

We have the further honor to confirm that our Government shares this understanding and that your letter and this letter in reply shall constitute an integral part of the Free Trade Agreement.

Sincerely,

[SGN/]
Hyun Chong Kim

[SGN/]
Sung Jin Kim
Deputy Minster
Ministry of Finance and Economy

我们谨进一步确认，我国政府认同这一理解，贵方来函与本复函将构成自由贸易协定的组成部分。

此致，

[SGN/]
金玄忠

[SGN/]
金成珍 副部长 财政经济部