

Annex III

Explanatory Notes

1. (a) The Schedule of a Party to this Annex sets out, pursuant to Article 14 (Non-Conforming Measures), the Party's existing measures that are not subject to some or all of the obligations imposed by:
 - (i) Article 3 (National Treatment);
 - (ii) Article 4 (Most-Favored-Nation Treatment);
 - (iii) Article 8 (Performance Requirements); or
 - (iv) Article 9 (Senior Management and Boards of Directors).
- (b) The Schedule of the United States to this Annex sets out headnotes that limit or clarify the commitments of the United States with respect to the articles described in subparagraph (a)(i) through (iv).
2. Each Schedule entry sets out the following elements:
 - (a) **Sector** refers to the general sector for which the entry is made;
 - (b) **Subsector** refers to the specific sector for which the entry is made;
 - (c) **Obligations Concerned** specifies the article(s) referred to in paragraph 1 that, pursuant to Article 14.1(a), do not apply to the non-conforming aspects of the law, regulation, or other measure, as set out in paragraph 3;
 - (d) **Level of Government** indicates the level of government maintaining the scheduled measure(s);
 - (e) **Measures** identifies the laws, regulations, or other measures for which the entry is made. A measure cited in the **Measures** element:
 - (i) means the measure as amended, continued, or renewed as of the date of entry into force of this Treaty, and
 - (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and
 - (f) **Description** provides a general, nonbinding description of the measure for which the entry is made.

3. In accordance with Article 14.1(a), and subject to Article 14.1(c), the articles of this Treaty specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming aspects of a law, regulation, or other measure identified in the **Measures** element of that entry.

**Annex III
Schedule of Rwanda**

Sector:	Insurance
Obligations Concerned:	National Treatment (Article 3)
Level of Government:	Central
Measures:	Law No. 18/1982 of 25/05/1982 pertaining to conditions of operating insurance companies, Article 2
Description:	Insurance companies operating in Rwanda must have at least 30% shares owned by nationals of Rwanda.
Phase Out:	This Annex III entry shall cease to have effect on the earlier of: (i) the date that Rwanda enacts an insurance law that eliminates the non-conforming aspects of the measure as set forth above; ¹ or (ii) September 1, 2009.

¹ As of the signing of this Treaty, a draft insurance law is being developed that Rwanda expects will repeal the current 1982 insurance law and remove the 70% equity cap for foreigners.

Annex III
Schedule of the United States

Headnotes

1. Commitments in these subsectors under the Treaty are undertaken subject to the limitations and conditions set forth in these headnotes and in the Schedule below.
2. National treatment commitments in these subsectors are subject to the following limitations:
 - (a) National treatment with respect to banking will be provided based upon the foreign bank's "home state" in the United States, as that term is defined under the *International Banking Act*, where that Act is applicable. A domestic bank subsidiary of a foreign firm will have its own "home state," and national treatment will be provided based upon the subsidiary's home state, as determined under applicable law.¹
 - (b) National treatment with respect to insurance financial institutions will be provided according to a non-U.S. insurance financial institution's state of domicile, where applicable, in the United States. State of domicile is defined by individual states, and is generally the state in which an insurer either is incorporated, is organized, or maintains its principal office in the United States.

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

Sector: Financial Services

Subsector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: Senior Management and Boards of Directors (Article 9)

Level of Government: Central

Measures: 12 U.S.C. § 72

Description: All directors of a national bank must be U.S. citizens, except that the Comptroller of the Currency may waive the citizenship requirement for not more than a minority of the total number of directors.

Sector: Financial Services

Subsector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: National Treatment (Article 3)

Level of Government: Central

Measures: 12 U.S.C. § 619

Description: Foreign ownership of Edge corporations is limited to foreign banks and U.S. subsidiaries of foreign banks, while domestic non-bank firms may own such corporations.

Sector: Financial Services

Subsector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: National Treatment (Article 3)

Level of Government: Central

Measures: 12 U.S.C. § 1463 et seq. and 12 U.S.C. § 1751 et seq.

Description: Federal and state laws do not permit a credit union, savings bank, or savings association (both of the latter two entities may be also called thrift institutions) in the United States to be established through branches of corporations organized under a foreign country's law.

Sector: Financial Services

Subsector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: National Treatment (Article 3)

Level of Government: Central

Measures: 12 U.S.C. § 3104(d)

Description: In order to accept or maintain domestic retail deposits of less than \$100,000, a foreign bank must establish an insured banking subsidiary. This requirement does not apply to a foreign bank branch that was engaged in insured deposit-taking activities on December 19, 1991.

Sector: Financial Services

Subsector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: National Treatment (Article 3)

Level of Government: Central

Measures: 15 U.S.C. §§ 80b-2 and 80b-3

Description: Foreign banks are required to register as investment advisers under the *Investment Advisers Act of 1940* to engage in securities advisory and investment management services in the United States, while domestic banks² (or a separately identifiable department or division of the bank) do not have to register unless they advise registered investment companies. The registration requirement involves record maintenance, inspections, submission of reports, and payment of a fee.

² For greater certainty, "domestic banks" include U.S. bank subsidiaries of foreign banks.

Sector: Financial Services

Subsector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: National Treatment (Article 3)

Level of Government: Central

Measures: 12 U.S.C. §§ 221, 302, and 321

Description: Foreign banks cannot be members of the Federal Reserve System, and thus may not vote for directors of a Federal Reserve Bank. Foreign-owned bank subsidiaries are not subject to this measure.

Sector: Financial Services

Subsector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: National Treatment (Article 3)

Level of Government: Central

Measures: 12 U.S.C. § 3102(a)(1); 12 U.S.C. § 3103(a); 12 U.S.C. § 3102(d)

Description: Establishment of a federal branch or agency by a foreign bank is not available in the following states that may prohibit establishment of a branch or agency by a foreign bank:

- Branches and agencies may be prohibited in Alabama, Kansas, Maryland, North Dakota, and Wyoming.
- Branches, but not agencies, may be prohibited in Delaware, Florida, Georgia, Idaho, Louisiana, Mississippi, Missouri, Oklahoma, Texas, and West Virginia.

Certain restrictions on fiduciary powers apply to federal agencies.

Note: The cited federal measures provide that certain state law restrictions shall apply to the establishment of federal branches or agencies.

Sector: Financial Services

Subsector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: Most-Favored-Nation Treatment (Article 4)

Level of Government: Central

Measures: 15 U.S.C. § 77jjj(a)(1)

Description: The authority to act as a sole trustee of an indenture for a bond offering in the United States is subject to a reciprocity test.

Sector: Financial Services

Subsector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: Most-Favored-Nation Treatment (Article 4)

Level of Government: Central

Measures: 22 U.S.C. §§ 5341-5342

Description: Designation as a primary dealer in U.S. government debt securities is conditioned on reciprocity.

Sector: Financial Services

Subsector: Banking and Other Financial Services (Excluding Insurance)

Obligations Concerned: Most-Favored-Nation Treatment (Article 4)

Level of Government: Central

Measures: 15 U.S.C. § 78o(c)

Description: A broker-dealer registered under U.S. law that has its principal place of business in Canada may maintain its required reserves in a bank in Canada subject to the supervision of Canada.

Sector:	Financial Services
Subsector:	Banking and Other Financial Services (Excluding Insurance)
Obligations Concerned:	National Treatment (Article 3)
Level of Government:	Central
Measures:	12 U.S.C. § 1421 <u>et seq.</u> (Federal Home Loan Banks); 12 U.S.C. § 1451 <u>et seq.</u> (Federal Home Loan Mortgage Corporation); 12 U.S.C. § 1717 <u>et seq.</u> (Federal National Mortgage Association); 12 U.S.C. § 2011 <u>et seq.</u> (Farm Credit Banks); 12 U.S.C. § 2279aa-1 <u>et seq.</u> (Federal Agricultural Mortgage Corporation); 20 U.S.C. § 1087-2 <u>et seq.</u> (Student Loan Marketing Association)
Description:	<p>The United States may grant advantages, including but not limited to the following, to one or more of the Government-Sponsored Enterprises (GSEs) listed above:</p> <ul style="list-style-type: none"> • Capital, reserves, and income of the GSE are exempt from certain taxation. • Securities issued by the GSE are exempt from registration and periodic reporting requirements under federal securities laws. • The U.S. Treasury may, in its discretion, purchase obligations issued by the GSE.

Sector:	Financial Services
Subsector:	Insurance
Obligations Concerned:	National Treatment (Article 3)
Level of Government:	Central
Measures:	31 U.S.C. § 9304
Description:	Branches of foreign insurance companies are not permitted to provide surety bonds for U.S. Government contracts.

Sector:	Financial Services
Subsector	Insurance
Obligations Concerned:	National Treatment (Article 3)
Level of Government:	Central
Measures:	46 C.F.R. § 249.9
Description:	When more than 50 percent of the value of a maritime vessel whose hull was built under federally guaranteed mortgage funds is insured by a non-U.S. insurer, the insured must demonstrate that the risk was substantially first offered in the U.S. market.

Sector: Financial Services

Subsector: All

Obligations Concerned: National Treatment (Article 3)
Most-Favored-Nation Treatment (Article 4)
Performance Requirements (Article 8)
Senior Management and Boards of Directors (Article 9)

Level of Government: Regional

Measures: All existing non-conforming measures of all states of the United States, the District of Columbia, and Puerto Rico.