

CHAPTER 9

FINANCIAL SERVICES

Article 9.1: Scope and Coverage

1. This Chapter applies to measures adopted or maintained by a Party affecting trade in financial services 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 11 (Investment) and 8 (Cross-Border Trade in Services) apply to measures described in paragraph 1 only to the extent that such Chapters or Articles of such Chapters are incorporated into this Chapter.

- (a) Articles 11.4 (Minimum Standard of Treatment), 11.6 (Expropriation and Compensation), 11.7 (Transfers), 11.11 (Special Formalities and Information Requirements), 11.13 (Denial of Benefits), 11.15 (Financial Services) and Articles 8.11 (Denial of Benefits) are hereby incorporated into and made a part of this Chapter.
- (b) Section B (Investor-State Dispute Settlement) of Chapter 11 (Investment) is hereby incorporated into and made a part of this Chapter solely for claims that a Party has breached Article 11.6 (Expropriation and Compensation), 11.7 (Transfers), 11.11 (Special Formalities and Information Requirements) or 11.13 (Denial of Benefits), as incorporated into this Chapter.¹¹

3. This Chapter does not apply to measures:

- (a) adopted or maintained by a Party relating to activities or services forming part of a statutory system of social security or public retirement plan;
- (b) adopted or maintained by a Party relating to activities or services conducted for the account or with the guarantee or using the financial resources of the Party, including its public entities; or
- (c) conducted by a central bank, monetary authority or any other public entity

¹¹ For greater certainty, Section B (Investor-State Dispute Settlement) of Chapter 11 (Investment) shall not apply to cross-border trade in financial services.

of a Party in pursuit of monetary or exchange rate policies.

Notwithstanding the above, this Chapter shall apply to the extent a Party allows any of the activities or services referred to in subparagraph (a) and (b) to be conducted by its financial institutions in competition with a public entity or a financial service supplier.

4. This Chapter does not apply to government procurement of financial services.
5. This Chapter shall not apply to subsidies or grants with respect to the supply of financial services, including government-supported loans, guarantees and insurance.

Article 9.2: National Treatment¹²

1. Each Party shall accord to investors of the other Party treatment no less favorable than that it accords, in like circumstances, to its own investors 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. Each Party shall accord to cross-border financial service suppliers of the other Party seeking to supply or supplying the financial services as specified by the Party in Annex 9 treatment no less favorable than that it accords to its own financial service suppliers, in like circumstances.

Article 9.3: Most-Favored-Nation Treatment

1. Each Party shall accord to:
 - (a) investors of the other Party, treatment no less favourable than that it accords to investors of a non-Party, in like circumstances;

12 For greater certainty, whether treatment is accorded in “like circumstances” under Articles 9.2 or 9.3 depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors, investments, financial institutions or financial service suppliers on the basis of legitimate public welfare objectives.

- (b) financial institutions of the other Party, treatment no less favourable than that it accords to financial institutions of a non-Party, in like circumstances;
 - (c) investments of investors of the other Party in financial institutions, treatment no less favourable than that it accords to investments of investors of a non-Party in financial institutions, in like circumstances; and
 - (d) cross-border financial services suppliers of the other Party, treatment no less favourable than that it accords to cross-border financial services suppliers of a non-Party in financial institutions, in like circumstances.
2. For greater certainty, the treatment referred to in paragraph 1 does not encompass international dispute resolution procedures or mechanisms such as those included in Article 9.1.2 (b).

Article 9.4: Market Access for Financial Institutions

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

- (a) impose limitations 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;
 - (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; 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 9.5: 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 financial services specified in Annex 9.
2. Each Party shall permit its nationals in the territory of the other Party or non-Party, 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 those suppliers to do business or solicit in its territory. A party may define “doing business” and “solicitation” for the 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 or authorisation of cross-border financial service suppliers of the other Party and of financial instruments.

Article 9.6: New Financial Services

1. Each Party shall permit financial institutions of the other Party established in the territory of the Party to supply a new financial service in the territory of the Party that the Party would permit its own financial institutions, in like circumstances, to supply without adopting or modifying a law¹³.
2. Where an application is approved, the supply of the new financial service is subject to relevant licensing, institutional or juridical form, or other requirements of the Party.

Article 9.7: 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, financial service suppliers or cross-border financial service suppliers;
- (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 ; or

¹³ For greater certainty, a Party may issue a new regulation or other subordinate measure in permitting the supply of the new financial service.

- (c) any confidential or proprietary information in the possession of public entities.

Article 9.8: Senior Management and Boards of Directors

1. Neither Party may require that a financial institution of the other Party appoint to senior management positions natural persons of any particular nationality.
2. Neither Party may require that more than a minority of the board of directors of a financial institution of the other Party be composed of nationals of the Party, persons residing in the territory of the Party, or a combination thereof.

Article 9.9: Non-Conforming Measures

1. Articles 9.2, 9.3, 9.4, 9.5, and 9.8 do not apply to:
 - (a) any existing non-conforming measure that is maintained by a Party as set out by that Party in Section A of its Schedule to Annex III;
 - (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 Articles 9.2, 9.3, 9.4, 9.5 and 9.8.
2. Articles 9.2, 9.3, 9.4, 9.5, and 9.8 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 a Party's Schedule to Annex I or Annex II as a measure to which Article 11.2 (National Treatment) or 11.3 (Most-Favored-Nation Treatment - Investment) or Article 11.9 (Senior Management and Boards of Directors), Article 8.2 (National Treatment), 8.3 (Most-Favored-Nation Treatment) or 8.4 (Market Access - Services) does not apply, shall be treated as a non-conforming measure to which Article 9.2, 9.3, 9.4, 9.5 or, 9.8, as the case may be, does not apply, to the extent that the measure, sector, subsector, or activity set out in the Schedule is covered by this Chapter.

Article 9.10: Exceptions

1. Notwithstanding any other provision of this Chapter, a Party shall not be prevented from adopting or maintaining measures relating to financial services for prudential reasons, including for the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed by a financial services supplier, or to ensure the integrity and stability of the financial system.¹⁴ 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 applies to non-discriminatory measures of general application in pursuit of monetary and related credit policies or exchange rate policies.¹⁵ This paragraph shall not affect a Party's obligations under Article 11.7 (Transfers).
3. For greater certainty, nothing in this Chapter shall be construed to prevent the adoption or enforcement by any Party of measures necessary to secure compliance with laws or regulations that are not inconsistent with this Chapter, including those relating to the prevention of deceptive and fraudulent practices or to deal with the effects of a default on financial services contracts, subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on investment in financial institutions or cross-border trade in financial services.

Article 9.11: Transparency and Administration of Certain Measures

1. The Parties recognize that transparent regulations and policies governing the activities of financial institutions, financial service suppliers or cross-border financial service suppliers are important in facilitating access 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

¹⁴ It is understood that the term "prudential reasons" includes the maintenance of the safety, soundness, integrity, or financial responsibility of individual financial institutions or the financial system, as well as the maintenance of the safety and financial and operational integrity of payment and clearing systems.

¹⁵ For greater certainty, measures of general application taken in pursuit of monetary and related credit policies or exchange rate policies do not include measures that expressly nullify or amend contractual provisions that specify the currency of denomination or the rate of exchange of currencies.

Chapter shall apply are administered in a reasonable, objective, and impartial manner.

3. In lieu of paragraph 1 of Article 17.1 (Publication), each Party shall, to the extent practicable:

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

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

4. To the extent practicable, each Party should allow reasonable period of 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 organisations of the Party are promptly published or otherwise made available in such a manner as to enable interested persons to become acquainted with them.¹⁶

6. Each Party shall establish or maintain 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 available to interested persons the requirements, including any documentation required, for completing applications relating to the supply of financial services.

8. On 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 complete application of an investor in a financial institution, a financial institution, a financial service supplier or a cross-border financial service supplier of the other Party relating to the supply of a financial service within 180 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 180 days, the regulatory authority shall notify the applicant without undue delay and shall endeavour to make the decision within a reasonable time thereafter.

¹⁶ For greater certainty, the Parties agreed that such information may be published in each Parties' chosen languages.

10. On the request of an unsuccessful applicant in writing, a regulatory authority that has denied an application shall, to the extent possible, inform the applicant of the reasons for denial of the application.

Article 9.12: Self-Regulatory Organisations

Where a Party requires a financial institution or a cross-border financial service supplier of the other Party to be a member of, participate in, or have access to, a self-regulatory organisation to provide a financial service in or into the territory of that Party, the Party shall ensure that the self-regulatory organisation observes the obligations of Articles 9.2 and Article 9.3.

Article 9.13: 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 systems¹⁷ 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 9.14: Transfers of Information and Processing of Information

1. The Parties recognise that each Party may have its own regulatory requirements concerning the transfer of information and the processing of information¹⁸.
2. A Party shall not take measures that prevent:
 - (a) transfers of information, including transfers of data by electronic or other means, necessary for the conduct of the ordinary business of a financial service supplier in its territory; or
 - (b) processing of information necessary for the conduct of the ordinary business of a financial service supplier in its territory.
3. Nothing in paragraph 2 prevents a regulatory authority of a Party, for regulatory or prudential reasons, from requiring a financial service supplier in its territory to comply with its laws and regulations in relation to data management and storage and system maintenance, as well as to retain within its territory copies of records,

¹⁷ For greater certainty, for China, the High Value Payment System and the Bulk Electronic Payment System are provided by the People's Bank of China.

¹⁸ For greater certainty, a Party may adopt a different regulatory approach, and this paragraph does not affect and is without prejudice to a Party's rights and obligations under this Article.

provided that such requirements shall not be used as a means of avoiding the Party's commitments or obligations under this Agreement.

4. Nothing in paragraph 2 restricts the right of a Party to protect personal data, personal privacy, and the confidentiality of individual records and accounts including in accordance with its laws and regulations, provided that such a right shall not be used as a means of avoiding the Party's commitments or obligations under this Agreement.

5. Nothing in paragraph 2 shall be construed to require a Party to allow the cross-border supply or consumption abroad of services in relation to which it has not made commitments, including to allow non-resident suppliers of financial services to supply, as a principal, through an intermediary or as an intermediary, the provision and transfer of financial information and financial data processing as referred to in Article 9.21 and Article 9.5.

Article 9.15: Recognition

1. A Party may recognise prudential measures of any international standard setting body, or a non-Party in determining how the Party's measures relating to financial services shall be applied¹⁹. That recognition may be:

(a) accorded autonomously;

(b) achieved through harmonisation or other means; or

(c) based upon an agreement or arrangement with the other Party or a 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 9.16: Financial Services Committee

1. The Parties hereby establish a Financial Services Committee. The Financial

¹⁹ For greater certainty, nothing in Article 9.3 shall be construed to require a Party to accord such recognition to prudential measures of the other Party.

Services Committee shall comprise officials of each Party responsible for financial services as set out in paragraph 4.

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, including ways for the Parties to cooperate more effectively in the financial services sector and
 - (c) participate in the dispute settlement procedures in accordance with Article 11.15 (Financial Services).
3. The Committee shall meet annually, or as otherwise agreed, to assess the functioning of this Agreement as it applies to financial services.
4. The authorities responsible for financial services are:
 - (a) for China, the People's Bank of China, State Administration for Finance regulation, China Securities Regulatory Commission, and State Administration of Foreign Exchange or their successors; and
 - (b) for Nicaragua, the Ministry of Development, Industry and Trade (*Ministerio de Fomento, Industria y Comercio (MIFIC)*); the Superintendency of Banks and other Financial Institutions (*Superintendencia de Bancos y de otras Instituciones Financieras (SIBOIB)*) and the Central Bank of Nicaragua (*Banco Central de Nicaragua (BCN)*) or their successors.

Article 9.17: Supervisory Cooperation

The Parties support the efforts of their respective financial regulations 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 shall 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 of ad hoc undertakings.

Article 9.18: 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.

2. Consultations under this Article shall include officials of the authorities specified in Article 9.20 .

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

Article 9.19: Dispute Settlement

1. Chapter 21 (Dispute Settlement) shall apply to the settlement of disputes arising under this Chapter.

2. Arbitral tribunals for disputes on prudential issues and other financial matters shall have the necessary expertise relevant to the specific financial service under dispute.

Article 9.20: Contact Points

For the purposes of this Chapter, the authorities responsible for financial services are:

(a) for China, the People’s Bank of China, State Administration for Finance Regulation, China Securities Regulatory Commission, and State Administration of Foreign Exchange; and

(b) for Nicaragua, the Ministry of Development, Industry and Trade (*Ministerio de Fomento, Industria y Comercio (MIFIC)*); the Central Bank of Nicaragua (*Banco Central de Nicaragua (BCN)*) and the Superintendency of Banks and other Financial Institutions (*Superintendencia de Bancos y de Otras Instituciones Financieras (SIBOIB)*) or their successors.

2. A Party shall promptly notify the other Party of any change of its contact point.

Article 9.21: Definitions

For the 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** 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 authorised 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;
- (g) Financial leasing;
- (h) All payment and money transmission services, including credit, charge and debit cards, traveller's cheques, 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 cheques, 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; and
 - (vi) 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 means any person of a Party seeking to supply or

supplying financial services but the term “financial service supplier” does not include a public entity;

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 the purposes of Chapter 11 (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 a national or an enterprise 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 national who is a dual national shall be deemed to be exclusively a national of the Party of his or her dominant and effective nationality;

new financial service means a service of a financial nature, including services related to existing and new products or the manner in which a product is delivered, that is not supplied by any financial service supplier in the territory of a Party but which is supplied in the territory of the other Party.

person means a person as defined in Article 1.5 (General Definitions). For greater certainty, a person does not include a branch of an enterprise of a non-Party;

public entity means a government, a central bank or monetary authority of a Party, or an entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or a private entity, performing functions normally performed by a central bank or monetary authority, when exercising those functions.;and

self-regulatory organisation means any non-governmental body, including any securities or futures exchange or market, clearing agency, or other organisation 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.

ANNEX 9

CROSS-BORDER TRADE

Section A: CHINA²⁰

Insurance and insurance-related services

1. Article 9.5.1 (Cross-border Trade) 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 9.21 (Definition) with respect to:

(a) Insurance of risks relating to:

(i) International marine, aviation, and transport insurance;

(ii) Brokerage for large scale commercial risks, international marine, aviation, and transport insurance, and reinsurance.

(b) Reinsurance;

Banking and other financial services (excluding insurance)

2. Article 9.5.1 (Cross-border Trade) applies to the cross-border supply of or trade in financial services as referred to in subparagraph (a) of the definition of cross-border supply of financial services in Article 9.21 (Definition) 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 9.21 (Definition), which shall be authorized by relevant regulatory institution²¹ as required.

(b) Advisory and other auxiliary services relating to banking and other financial services, excluding intermediation, credit services and other auxiliary services such as advisory services related to securities investment, funds investment and futures transaction, as referred to in subparagraph (p) of the definition of financial services in Article 9.21.

²⁰ For further explanation, China require the cross-border financial services supplier establish local agency and keep record.

²¹ Each party understand that if the financial information and financial data processing referred to in (a) and (b) involves personal data, the processing of such personal information shall comply with Chinese laws and regulations on protecting such data.

3. A foreign institution that provides bank card clearing services of foreign currencies solely for the purpose of cross-border transactions are not required to establish a bank card clearing institution in the territory of People's Republic of China in principle. The institution shall report its business operation to the People's Bank of China and the National Administration of Financial Regulation of China, and shall comply with relevant regulatory requirements.

Section B: NICARAGUA

Insurance and Insurance-Related Services

1. Article 9.5.1 (Cross-border Trade) 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 with respect to:

- (a) insurance of risk relating to:
 - (i) International marine, aviation, and transport insurance, 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) brokerage of insurance risks relating to paragraphs (a)(i) and (a)(ii); and
- (d) auxiliary services to insurance as referred to in subparagraph (d) of the definition of financial services. These auxiliary services will only be provided to an insurance supplier.

2. Article 9.5.1 (Cross-border Trade) 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 with respect to insurance services. The commitment for cross-border movement of persons is limited to those insurance and insurance-related services listed in paragraph 1.

Banking and Other Financial Services (Excluding Insurance)

3. Article 9.5.1 (Cross-border Trade) applies with respect to:

- (a) the provision and transfer of financial information as described in subparagraph (o) of the definition of financial service;

(b) financial data processing and related software as described in subparagraph (o) of the definition of financial service, subject to prior authorization from the relevant regulator, as required; and

(c) advisory and other auxiliary financial service²² excluding intermediation and credit reference and analysis, relating to banking and other financial services as described in subparagraph (p) of the definition of financial service.

Nicaragua's law regulating protection of personal information applies where the financial information or financial data processing referred to in subparagraphs (a) and (b) involves such protected information.

²² It is understood that advisory services includes portfolio management. Additionally, auxiliary services does not include those services referred to in subparagraphs (e) through (o) of the definition of financial service in Article 9.21.