

Annex III

SCHEDULE OF COSTA RICA

EXPLANATORY NOTE

1. The Schedule of Costa Rica to Annex III sets out:
 - (a) headnotes that limit or clarify the commitments of Costa Rica with respect to the obligations described in subparagraphs (b) and (c);
 - (b) in Section A, pursuant to Article 11.9 (Non-Conforming Measures), the existing measures of Costa Rica that do not conform to some or all of the obligations imposed by:
 - (i) Article 11.2 (National Treatment);
 - (ii) Article 11.3 (Most-Favored-Nation Treatment);
 - (iii) Article 11.4 (Market Access for Financial Institutions);
 - (iv) Article 11.5 (Cross-Border Trade); or
 - (v) Article 11.8 (Senior Management and Boards of Directors); and
 - (c) in Section B, pursuant to Article 11.9 (Non-Conforming Measures), the specific sectors, subsectors, or activities for which Costa Rica may maintain existing, or adopt new or more restrictive, measures that do not conform with the obligations imposed by Article 11.2 (National Treatment), 11.3 (Most-Favored-Nation Treatment), 11.4 (Market Access for Financial Institutions), 11.5 (Cross-Border Trade), or 11.8 (Senior Management and Boards of Directors).
2. Each entry in Section A 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 obligation(s) referred to in paragraph 1(b) that, pursuant to Article 11.9 (Non-Conforming Measures), do not apply to the listed measure(s);
 - (d) **Level of Government** indicates the level of government maintaining the listed 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 Agreement, and
 - (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and
 - (f) **Description** provides a general, non-binding description of the **Measures**.
3. Each entry in Section B 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 obligation(s) referred to in paragraph 1(c) that, pursuant to Article 11.9 (Non-Conforming Measures), do not apply to the sectors, subsectors, or activities listed in the entry;
 - (d) **Level of Government** indicates the level of government maintaining the listed measure(s); and
 - (e) **Description** sets out the scope of the sectors, subsectors, or activities covered by the entry.
4. In the interpretation of a non-conforming measure in Section A, all elements of the non-conforming measures listing shall be considered. A non-conforming measure shall be interpreted in the light of the relevant provisions of the Financial Services Chapter with respect to which the non-conforming measure is taken. To the extent that:
- (a) the **Measures** element is qualified by a liberalization commitment from the **Description** element, if any, or a Specific Commitment from an Annex to the Financial Services Chapter, the **Measures** element as so qualified shall prevail over all other elements; and
 - (b) the **Measures** element is not so qualified, the **Measures** element shall prevail over all other elements, unless any discrepancy between the **Measures** element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the **Measures** element should prevail, in which case the other elements shall prevail to the extent of the discrepancy.
5. For entries in Section B, in accordance with Article 11.9.2 (Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the sectors, subsectors, and activities identified in the **Description** element of that entry.
6. Where Costa Rica maintains a measure that requires that a service supplier be a citizen, permanent resident or resident of its territory as a condition to the provision of a service in its territory, a listing for that measure taken in Annex III with respect to Articles 11.2 (National Treatment), 11.3 (Most-Favored-Nation Treatment), 11.4 (Market Access for Financial Institutions), or 11.5 (Cross-Border Trade) shall operate as a non-conforming

measure with respect to Articles 9.3 (National Treatment), 9.4 (Most-Favored-Nation Treatment) and 9.9 (Performance Requirements), to the extent of that measure.

Annex III

SCHEDULE OF COSTA RICA

HEADNOTE

1. Commitments in the subsectors under the Agreement are undertaken subject to the limitations and conditions set forth in these headnotes and in the Schedules below.
2. Juridical persons seeking to supply or that are supplying banking or other financial services and that will be or have been constituted under the laws of Costa Rica are subject to non-discriminatory limitations on juridical form.
3. A measure adopted or maintained for prudential reasons is not required to be listed as a reservation in Section A or B. However, the listing of a measure as a reservation in Section A or B does not mean that it cannot otherwise be justified as a measure adopted or maintained for prudential reasons.
4. Costa Rica limits its commitments under Article 11.9.1(c) (Non-Conforming Measures) with respect to Article 11.4 (Market Access for Financial Institutions) in the following manner: Article 11.9.1(c) shall apply only to non-conforming measures relating to Article 11.4.1(a) and not to those non-conforming measures relating to Article 11.4.1(b)¹.
5. Appendix III-1 refers to certain measures that the Parties consider to be not inconsistent with Articles 11.2 (National Treatment) or 11.4 (Market Access for Financial Institutions) or that are subject to Article 11.10 (Exceptions).

¹ Article 11.3 (Most-Favoured-Nation Treatment) shall not apply with regard to the limitation in the application of Article 11.9.1(c) described above in paragraph 4.

Annex III

Schedule of Costa Rica

Section A

1. Sector:	Financial Services
Subsector:	Banking and other financial services
Obligations Concerned:	National Treatment (Article 11.2)
Level of Government:	Central
Measures:	<p>Law No. 1644 of 26 September 1953 – Organic Law of the National Banking System (<i>Ley Orgánica del Sistema Bancario Nacional</i>)</p> <p>Law No. 4646 of 20 October 1970 – Law that Modifies the Integration of the Boards of Directors of Autonomous Institutions (<i>Ley que Modifica la Integración de las Juntas Directivas de Instituciones Autónomas</i>)</p> <p>Law No. 7558 of 3 November 1995 – Organic Law of the Central Bank of Costa Rica (<i>Ley Orgánica del Banco Central de Costa Rica</i>)</p> <p>Law No. 7732 of 17 December 1997 – Regulatory Law of the Securities Market (<i>Ley Reguladora del Mercado de Valores</i>)</p> <p>Law No. 8187 of 18 December 2001 – Reform of Article 117 of the Organic Law of the National Banking System, No. 1644 and its reforms (<i>Reforma del Artículo 117 de la Ley Orgánica del Sistema Bancario Nacional, No. 1644 y sus reformas</i>)</p> <p>Law No. 7107 of 4 November 1988 – Modernization Law of the Financial System of the Republic (<i>Ley de Modernización del Sistema Financiero de la República</i>)</p> <p>Law No. 7052 of 27 November 1986 – Law of the Financial System for Housing and the Creation of BANHVI (Housing Mortgage Bank) (<i>Ley del Sistema Financiero Nacional para la Vivienda y Creación del Banco Hipotecario de la Vivienda</i>)</p> <p>Law No. 4351 of 11 July 1969 – Organic Law of the Popular and Community Development Bank (<i>Ley Orgánica del Banco Popular y de Desarrollo Comunal</i>)</p> <p>Executive Decree No. 28985 of 18 October 2000 – Regulation to Article 59 of the Organic Law of the National Banking System (<i>Reglamento al artículo 59 de la Ley Orgánica del Sistema Bancario Nacional</i>)</p> <p>Law No. 8634 of 23 April 2008 – Law of the Banking System for Development (<i>Ley del Sistema de Banca para el Desarrollo</i>)</p> <p>Law No. 9274 of 12 November 2014 – Comprehensive Reform of the</p>

	<p>Law Banking System for Development (<i>Reforma Integral de la Ley Sistema de Banca para el Desarrollo</i>)</p> <p>Law No. 8642 of 4 June 2008 – General Telecommunications Law (<i>Ley General de Telecomunicaciones</i>)</p>
<p>Description:</p>	<p>The State guarantees the liabilities of the State Banks and of the non-State banks of Public Law.</p> <p>Private banks that operate current accounts and saving sections have to meet the following requirements:</p> <p>(a) To maintain permanently a minimum loan balance with the state bank that administers the credit fund for development (<i>fondo de crédito para el desarrollo</i>) equivalent to seventeen percent of total short-term deposits (thirty days or less), once the corresponding reserve is deducted, both in domestic and foreign currencies. In case that total deposits are made in national currency, the percentage shall be only fifteen percent using the same basis. The resources received from private entities by the managing State bank or banks do not have to comply with the minimum reserve. Such funds will be placed at a rate equivalent to fifty percent of either the basic passive rate calculated by the Central Bank of Costa Rica (<i>Banco Central de Costa Rica</i>) for domestic currency, or the LIBOR rate at a one month term for foreign currency.</p> <p>(b) Alternatively, to establish at least four agencies or branches to provide basic banking services – both passive and active – in the following regions: Chorotega, Central Pacific, Brunca, Atlantic Huetar, and North Huetar, dedicating at least ten percent, once the corresponding reserve has been deducted, of total short-term deposits (thirty days or less), in domestic or foreign currency, to credits for programs designated by the Governing Council of the Banking System for Development (<i>Consejo Rector del Sistema de Banca para el Desarrollo</i>). Such funds shall be placed at a rate not higher than the basic passive rate calculated by the Central Bank of Costa Rica (<i>Banco Central de Costa Rica</i>), in its placements in domestic currency (<i>colones</i>), and the LIBOR rate at a one-month term, for resources in foreign currency.</p> <p>The State and public institutions with State character, as well as the public institutions the equity of which belongs mainly to the State or its institutions, may only make deposits and operations in current and savings accounts through State commercial banks and non-State banks of Public Law.</p> <p>At least 10 Costa Rican co-operative organizations are required to establish and operate a co-operative bank.</p>

	<p>At least 25 Costa Rican solidarity associations are required to establish and operate a solidarity bank.</p> <p>The fiduciary of the National Trust for Development (<i>Fideicomiso Nacional para el Desarrollo –FINADE-</i>) shall be a public bank, selected through a public bid process in which only the public banks are allowed to participate.</p> <p>Trust agreements of the National Telecommunications Fund (<i>Fondo Nacional de Telecomunicaciones-FONATEL-</i>) shall be signed with public banks of the National Banking System (<i>Sistema Bancario Nacional</i>).</p>
--	---

2. Sector:	Financial Services
Subsector:	Non- banking financial services
Obligations Concerned:	Market Access for Financial Institutions (Article 11.4)
Level of Government:	Central
Measures:	Law No. 5044 of 13 September 1972 – Regulatory Law of Non-Bank Financial Companies (<i>Ley Reguladora de Empresas Financieras no Bancarias</i>)
Description:	Non-bank financial companies may not provide financial leasing services, since there are legal restrictions on the acquisition of movable and immovable property by such entities.

3. Sector:	Financial Services
Subsector:	Banking
Obligations Concerned:	National Treatment (Article 11.2) Market Access for Financial Institutions (Article 11.4)
Level of Government:	Central
Measures:	Law No. 4351 of 11 July 1969 – Organic Law of the Popular and Community Development Bank (<i>Ley Orgánica del Banco Popular y de Desarrollo Comunal</i>)
Description:	Only the Popular and Community Development Bank (<i>Banco Popular y de Desarrollo Comunal</i>) will manage the funds of the mandatory contributions made by employers and employees pursuant to the respective national legislation.

4. Sector:	Financial Services
Subsector:	Banking (financial entities that are recipients of deposits from the public)
Obligations Concerned:	Market Access for Financial Institutions (Article 11.4)
Level of Government:	Central
Measures:	<p>Law No.1644 of 26 September 1953 – Organic Law of the National Banking System (<i>Ley Orgánica del Sistema Bancario Nacional</i>)</p> <p>Law No. 7107 of 4 November 1988 – Modernization Law of the Financial System of the Republic (<i>Ley de Modernización del Sistema Financiero de la República</i>)</p> <p>Law No. 5044 of 13 September 1972 – Regulatory Law of Non-Bank Financial Companies (<i>Ley Reguladora de Empresas Financieras no Bancarias</i>)</p> <p>Law No. 4179 of 22 August 1968 – Law of Cooperative Associations and of Creation of the INFOCOOP (<i>Ley de Asociaciones Cooperativas y de Creación del INFOCOOP</i>)</p>
Description:	Financial entities authorized to receive deposits from the public in Costa Rica, such as private banks, non-bank financial enterprises and savings and credit cooperatives are required to be constituted or organised under Costa Rican law.

5. Sector:	Financial Services
Subsector:	Securities
Obligations Concerned:	National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3)
Level of Government:	Central
Measures:	<p>Law No. 7732 of 17 December 1997 – Regulatory Law of the Securities Market (<i>Ley Reguladora del Mercado de Valores</i>)</p> <p>Regulation No. 571 of 9 May 2006 – Regulation on the Public Offering of Securities (<i>Reglamento sobre Oferta Pública de Valores</i>)</p> <p>Compendium of Legislation of the National Stock Exchange S.A. – Regulation on Stock Brokers (<i>Compendio de Normativa de la Bolsa Nacional de Valores S.A., - Reglamento sobre Agentes de Bolsa</i>)</p> <p>Regulation No. 762 of 19 December 2008 – General Regulation on Management Companies and Investment Funds (<i>Reglamento General sobre Sociedades Administradoras y Fondos de Inversión</i>)</p> <p>Regulation No. 801 of 11 September 2009 – Regulation on Rating of Securities and Risk Rating Companies (<i>Reglamento sobre Calificación de Valores y Sociedades Calificadoras de Riesgo</i>)</p>
Description:	<p>The public offering by the issuer or a non-resident third party, of securities issued abroad, is subject to the applicable legal provisions.</p> <p>The General Superintendency of Securities (<i>Superintendencia General de Valores (SUGEVAL)</i>) may establish the exceptions derived from international treaties subscribed by Costa Rica and from the agreements of exchange of information subscribed with other regulatory foreign entities of the securities market.</p> <p>It is necessary to be Costa Rican or to have legal residency in the country to obtain the credential to be an exchange agent.</p> <p>The mutual funds (<i>fondos de inversión</i>) can invest in:</p> <ol style="list-style-type: none"> a. Foreign securities of debt issued by sovereign issuers or issuers with sovereign guaranty, of countries with a credit rating (<i>calificación de riesgo</i>) from a credit rating agency (<i>entidad calificadora</i>) recognized as national by the Securities and Exchange Commission of the United States. b. Foreign securities of debt issued by private issuers with a credit rating (<i>calificación de riesgo</i>) from a credit rating agency (<i>entidad calificadora</i>) recognized as national by the Securities and

	<p>Exchange Commission of the United States.</p> <p>c. Structured products of issuers with a credit rating (<i>calificación de riesgo</i>) of investment grade by a credit rating agency (<i>entidad calificadora</i>) recognized as national by the Securities and Exchange Commission of the United States.</p> <p>d. Foreign investment funds that are authorized by a regulatory entity that is a member of the International Organization of Securities Commissions (IOSCO) to do public offer of securities. When investing in financial funds, the latter shall obey the same rules of indebtedness and diversification established for the funds registered in the United States, for the harmonised funds (according to their definition in the guidelines issued by the European Union) or for the Costa Rican funds.</p> <p>Foreign managers of financial funds portfolios must be authorized by the regulator of the market of an IOSCO member to offer the services of portfolio management.</p> <p>Only the banks subject to the supervision of the General Superintendency of Financial Institutions (<i>Superintendencia General de Entidades Financieras</i> (SUGEF)), and the international financial organizations with the participation of the Costa Rican State can be a fiduciary of a trust of development of public works.</p> <p>The issues of debt and convertible bonds are subject to the requirement of obligatory rating, except the issues of State securities and of non-banking Costa Rican public institutions. Furthermore, the risk rating of the issuers with domicile abroad can be granted by a foreign credit rating agency (<i>entidad calificadora</i>) recognized as national by the Securities and Exchange Commission of the United States or its subsidiaries.</p>
--	---

6. Sector:	Financial Services
Subsector:	Insurance and insurance-related services
Obligations Concerned:	National Treatment (Article 11.2) Market Access for Financial Institutions (Article 11.4)
Level of Government:	Central
Measures:	Law No. 8653 of 22 July 2008 – Regulatory Law of the Insurance Market, (<i>Ley Reguladora del Mercado de Seguros</i>). Law No. 12 of 30 October 1924 – Law of the National Insurance Institute (<i>Ley del Instituto Nacional de Seguros</i>).
Description:	Incorporation is required except for insurance and reinsurance companies. On a non-discriminatory basis, doing business and solicitation shall be prohibited for representation offices. The State guarantees the insurance activity of the National Insurance Institute (<i>Instituto Nacional de Seguros (INS)</i>).

Section B

7. Sector:	Financial Services
Subsector:	All subsectors other than Banking and Insurance
Obligations Concerned:	Market Access for Financial Institutions (Article 11.4)
Level of Government:	Central
Description:	Costa Rica reserves the right to adopt or maintain measures requiring the incorporation in Costa Rica of foreign financial institutions, other than those seeking to operate as banks or insurance companies within Costa Rica.

8. Sector:	Financial Services
Subsector:	All
Obligations Concerned:	Most-Favored-Nation Treatment (Article 11.3)
Level of Government:	Central
Description:	Costa Rica reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement.

Appendix III-1

CERTAIN MEASURES NOT INCONSISTENT WITH ARTICLES 11.2 OR 11.4, OR SUBJECT TO ARTICLE 11.10.

In accordance with Article 11.10 (Exceptions), Costa Rica reaffirms that nothing in this Agreement prevents it from adopting or maintaining measures for prudential reasons.

Without prejudice to Article 11.10 (Exceptions), any measure that Costa Rica adopts or maintains in its legislation that is equivalent or has an effect equivalent to the measures set forth in Appendix III-1 of Korea, shall not be construed to be inconsistent with Articles 11.2 (National Treatment) or 11.4 (Market Access for Financial Institutions). Any revision, amendment or modification to such measures or related legislation shall not be construed to be inconsistent with Articles 11.2 (National Treatment) or 11.4 (Market Access for Financial Institutions), to the extent that it does not conflict with the spirit of the original measure.