

Annex III

SCHEDULE OF NICARAGUA

EXPLANATORY NOTE

1. The Schedule of Nicaragua to Annex III sets out:
 - (a) headnotes that limit or clarify the commitments of Nicaragua with respect to the obligations described in clauses (i)-(v) of subparagraph (b);
 - (b) in Section A, pursuant to Article 11.9 (Non-Conforming Measures), the existing measures of Nicaragua 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);
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 subparagraph 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** identify 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;

(f) **Description** provides a general, nonbinding description of the **Measures**.

3. 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.

4. Where Nicaragua maintains a measure that requires that a service supplier be a citizen, 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.

Headnotes

1. Commitments in these subsectors under the Agreement are undertaken subject to the limitations and conditions set forth in these headnotes and in Section A below.
2. In order to clarify the Nicaraguan commitment with respect to Article 11.4, juridical persons supplying financial services and organized under the laws of Nicaragua are subject to non-discriminatory limitations on juridical form.¹
3. The commitments of Nicaragua under Articles 11.2 (National Treatment) and 11.4 (Market Access for Financial Institutions) are subject to the limitation that in order to establish or acquire a controlling interest in a financial institution in Nicaragua, a foreign investor must own or control a financial institution that engages in supplying financial services within the same financial services subsector in its home country.
4. Nicaragua 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 11.4.1(a) and not to those non-conforming measures relating to Article 11.4.1(b).²

¹ For example, partnerships and sole proprietorship are generally not acceptable juridical forms for depository financial institutions in Nicaragua. This headnote is not itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.

² Article 11.3 (Most-Favored-Nation Treatment) shall not apply with regard to the limitation in the application of Article 11.9.1(c) described above in paragraph 4.

Section A

1. Sector:	Financial Services
Subsector:	Bank
Obligations Concerned:	National Treatment (Article 11.2)
Level of Government:	Central
Measures:	<p>Law No. 561, General Law of Banks, Non-Banking Financial Institutions and Financial Groups, hereinafter “LGB” (Ley No. 561, <i>Ley General de Bancos, Instituciones Financieras no Bancarias y Grupos Financieros</i>), published in <i>La Gaceta</i> No. 232 of November 30, 2005.</p> <p>(Resolution No. CD-SIBOIF-473-1-ABR11-2007, Standard on the Requirements for the Establishment of Banks, Financial Companies, Branches of Foreign Banks and Representation Offices hereinafter “Rule of Constitution”; (Resolución N° CD-SIBOIF-473-1-ABR11-2007, <i>Norma Sobre Los Requisitos para la constitución de Bancos, Sociedades Financieras, Sucursales de Bancos Extranjeros y Oficinas de Representación</i>) (<i>Norma de Constitución</i>).</p> <p>Law No. 551, Deposit Guarantee System Law hereinafter “FOGADE” (Ley No. 551, <i>Ley del Sistema de Garantías de Depósito</i>), published in <i>La Gaceta</i> No. 168 of August 30, 2005 and its reforms.</p> <p>Law No. 587, Capital Markets Law, (Ley No. 587, <i>Ley de Mercado de Capitales</i>), published in <i>La Gaceta</i> No. 222 of November 15, 2006.</p> <p>Law No. 899, Investment Companies Law (Ley No. 899, <i>Ley de Sociedades de Inversión</i>), published in <i>La Gaceta</i> No. 76 of April 27, 2015.</p>
Description:	<p>Banking activity can only be practiced by legal entities constituted and domiciled in the country as corporations or by legally constituted bank branches abroad authorized for this purpose by the regulatory entity. Articles 2, 3, 4 and 9 of Law No. 561, (LGB).</p> <p>The capital that foreign banks assign to their branches in Nicaragua shall meet the minimum required for Nicaraguan institutions and be effectively paid and entered into the country.</p>

	<p>Article 17 of Law No. 561, (LGB) and Article 11 section a) of the Rule of Constitution (<i>Norma de Constitución</i>).</p> <p>Branches of foreign banks may not announce or advertise the amount of capital and reserves of its parent company, without announcing or advertising both the assigned capital and reserves of the branch in Nicaragua, Article 18 of Law No. 561, (LGB).</p> <p>The administration and legal representation of foreign bank branches established in Nicaragua will be the responsibility of or duly authorized administrators and managers with residence in the country, Article 32 of Law No. 561, (LGB).</p> <p>The legal address of foreign banking companies' branches, regarding its business performed in Nicaragua, shall be Nicaragua, Article 13 of Law No. 561, (LGB).</p> <p>Banks incorporated abroad that establish branches in Nicaragua, cannot use diplomatic channels in any case regarding its operations in Nicaragua, Article 13 of Law No. 561, (LGB).</p> <p>The capital of branches of foreign banks established in the country, if any, may be transferred abroad only with prior approval of the Superintendent of Banks, once completed the liquidation of its business, Article 26 of Law No. 561, (LGB).</p> <p>If a foreign bank that has branches in Nicaragua is liquidated under national law, those branches will also be liquidated. Article 77 FOGADE Act.</p> <p>Applications will only be made for the establishment of branches of foreign banks, when institutional information can be exchanged between the supervisors of both countries and the parent bank has more than five years of operation and financial banking intermediation in the country which granted it the license. If it is a foreign bank originated from a merger, those of the oldest entity will be counted as years of operation. Article 8 of the Rule of Constitution (<i>Norma de Constitución</i>). Representative offices of foreign banks can place funds in the country in the form of loans and investments, and act as information centers for their customers, but they are prohibited from accepting deposits from the public in Nicaragua. Article 14 of Law No. 561, (LGB).</p> <p>In the case of the stock market, to be a stockbroker, it is required to be a Nicaraguan or foreign person residing in Nicaragua and it is necessary to have complete proficiency in Spanish language. Article 69 of Law No. 587 (MDC).</p>
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	<p>For all entities under the supervision of the Superintendence, in which foreign nationals perform external audits, those foreign nationals, besides registering, must carry out their work through an authorized public accountant to exercise this profession in Nicaragua.</p>
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2. Sector:	Financial Services
Subsector:	Non-banking Financial Institutions and Other Financial Services: financial corporations, companies issuing credit cards, bonded warehouses, stock exchanges, brokerage firms, management companies of investment funds, fund management companies of securitization, central securities depository, clearing and settlement companies, entities operating with electronic money and special regime financial enterprises. (Excluding insurance).
Obligations Concerned:	National Treatment (Article 11.2)
Level of Government:	Central
Measures:	<p>Law No. 561, General Law of Banks, Non-Banking Financial Institutions and Financial Groups (Ley No. 561, <i>Ley General de Bancos, Instituciones Financieras no Bancarias y Grupos Financieros</i>), published in <i>La Gaceta</i> No.232 of November 30, 2005. (LGB Law).</p> <p>Law No. 515, Law on Promotion and Regulation on the Use of Credit Cards. (Ley No. 515, <i>Ley de Promoción y Ordenamiento del uso de la Tarjeta de Crédito</i>), published in <i>La Gaceta</i> No. 11 of January 17, 2005.</p> <p>Resolution No. CD-SIBOIF-629-4-MAY26-2010, Standard for Credit Card Operations, (Resolución N° CD-SIBOIF-629-4-MAY26-2010, <i>Norma para las Operaciones de Tarjetas de Crédito</i>), published in <i>La Gaceta</i> No.150 and 151 of August 9 and 10, 2010.</p> <p>Law No. 587, Capital Markets Law (Ley No. 587, <i>Ley de Mercado de Capitales</i>), published in <i>La Gaceta</i> No. 222 of November 15, 2006. (MDC Law).</p> <p>Resolution No. CD-SIBOIF-671-1-MAR30-2011, Standard for the Authorization and Operation of Entities Operating with Electronic Money (Standard EDE) (Resolución N° CD-SIBOIF-671-1-MAR30-2011, <i>Norma para la Autorización y Funcionamiento de Entidades que operan con Dinero Electrónico</i>), published in <i>La Gaceta</i> No.79 and 81 of May 3 and 5, 2011.</p> <p>Law No. 734, Law on General Deposit Warehouses (Ley No. 734, <i>Ley de Almacenes Generales de Depósitos</i>), published in <i>La</i></p>

	<i>Gaceta</i> No. 201 and 202 of October 21 and 22, 2010. Law on warehouses.
Description:	<p>Those interested in operating as financial corporations (Title IV LGB Law), general bonded warehouses (Articles 7 and 13 of Law No. 734, Law on warehouses), stock exchanges (Article 36 MDC Law), stockbrokers (Article 63 MDC Law), management companies of investment funds (Article 74 MDC Law), fund management companies of securitization (Article 122 MDC Law), central securities depository (Article 139 MDC Law), clearing and settlement companies (Article 154 MDC Law), entities operating with electronic money (Standard EDE) and special regimen financial companies must obtain authorization from the respective regulatory body and be constituted in the country as corporations or by branches of entities legally constituted abroad.</p> <p>The capital that non-banking financial institutions established in foreign countries allocate to their branches in Nicaragua must be effectively paid and transferred in Nicaragua. The branches of these non-banking financial institutions that capture public resources in form of deposits may not place loans based on the capital and reserves of the parent company.</p> <p>In case that non-banking financial institutions are covered by the same provisions outlined for Subsector of banking, refer to laws indicated in the Measures.</p>

3. Sector:	Financial Services
Subsector:	Insurances
Obligations Concerned:	Cross-Border Trade (Article 11.5) Senior Management and Boards of Directors. (Article 11.8)
Level of Government:	Central
Measures:	<p>Law No. 733, General Law for Insurance, Reinsurance, and Bonds (Ley No. 733, <i>Ley General de seguros reaseguros y fianzas</i>), published in <i>La Gaceta</i> No.162, 163 and 164 of August 25, 26 and 27, 2010. Hereinafter “Insurance Act” .</p> <p>Resolution SIB-OIF-IV-26-96, Regulatory Rules for the authorization of Insurance intermediaries and the exercise of their intermediation functions (Resolución: SIB-OIF-IV-26-96, <i>Normas Regulatorias para la autorización de intermediarios de Seguros y el ejercicio de sus funciones de intermediación</i>), published in <i>La Gaceta</i> No.13 of January 20, 1997.</p>
Description:	<p>The activity of insurance and reinsurance can be only practiced by legal entities constituted and domiciled in the country as corporation and authorized by the respective regulator. Article 9 of Insurance Act.</p> <p>Insurance companies (insurance, reinsurance, guarantees and re-consolidation) legally incorporated abroad can also operate in the country by establishing a branch. Article 20 of Insurance Act.</p> <p>Insurance companies incorporated abroad establishing branches in Nicaragua, are considered domiciled in Nicaragua for any legal effect. Article 24 of Insurance Act.</p> <p>The domicile of the branches of foreign insurance companies, with respect to their performed business in Nicaragua, will be Nicaraguan; and shall be deemed as their legal representatives, the attorneys or agents incorporated in the Republic of Nicaragua. Article 24 of Insurance Act.</p> <p>Insurance companies incorporated abroad that establish branches in Nicaragua, cannot use diplomatic channels in any case related to its operations in Nicaragua. Article 24 of Insurance Act.</p> <p>Natural or legal persons domiciled in Nicaragua are prohibited from buying insurance from companies without the proper</p>

	<p>authorization to operate in Nicaragua, except those for export and import transportation, or accidental damage that may occur outside of Nicaragua and if it can be demonstrated to the Superintendent that the specific insurance in question is not available in the country from authorized institutions or that these institutions do not have approved insurance policies covering those risks. Article 174 of Insurance Act.</p> <p>Foreigners wishing to engage in insurance brokerage or to be insurance agents in Nicaragua must be residents in the country, have a work permit and be authorized to exercise the activity under the law. Article 115 of Insurance Act.</p>
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4. Sector:	Financial Services
Subsector:	All Subsectors except Banking and Insurance
Obligations Concerned:	Market Access (Article 11.4) Cross-Border Trade (Article 11.5)
Level of Government:	Central
Measures:	
Description:	Nicaragua reserves the right to adopt or maintain measures requiring the incorporation in Nicaragua of financial institutions organized under the laws of foreign countries, excluding those seeking to operate as banks or insurance companies within Nicaragua.

5. Sector:	Financial Services
Subsector:	All Subsectors except Banking and Insurance
Obligations Concerned:	National Treatment (Article 11.2) Cross-Border Trade (Article 11.5)
Level of Government:	Central
Measures:	
Description:	<p>Nicaragua reserves the right to accord benefits to financial institutions or public entities wholly or majority owned by the State that supply financial services and are established with a public interest purpose, including but not limited to agriculture production finance, housing credits for low income families, and credits for small and midsize enterprises.</p> <p>Such benefits shall not disadvantage the core operations of commercial competitors and include, but are not limited to: extension of State guarantees, tax exemptions, exceptions to the usual juridical form requirements, and exceptions to the legal requirements to begin operations.</p>