

## Annex III

### Schedule of Ecuador with Respect to Financial Services

#### Introductory Note for the Schedule of Ecuador

1. The Schedule of Ecuador to this Annex sets out:
  - (a) headnotes that limit or clarify the commitments of Ecuador with respect to the obligations described in subparagraphs (b) (i) through (v) and in subparagraph (c);
  - (b) in Section A, pursuant to Article 10.9 (Non-Conforming Measures), the existing measures of Ecuador that do not conform with some or all of the obligations imposed by:
    - (i) Article 10.2 (National Treatment);
    - (ii) Article 10.3 (Most-Favored-Nation Treatment);
    - (iii) Article 10.4 (Market Access for Financial Institutions);
    - (iv) Article 10.5 (Cross-Border Trade); or
    - (v) Article 10.8 (Senior Management and Boards of Directors); and
  - (c) in Section B, pursuant to Article 10.9 (Non-Conforming Measures), the specific sectors, subsectors, or activities for which Ecuador may maintain existing, or adopt new or more restrictive, measures that do not conform with the obligations imposed by Articles 10.2 (National Treatment), 10.3 (Most-Favored-Nation Treatment), 10.4 (Market Access for Financial Institutions), 10.5 (Cross-Border Trade), or 10.8 (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) **Sub-sector** refers to the specific sector for which the entry is made;
  - (c) **Obligations Concerned** specifies the article(s) referred to in paragraph 1(b) that, pursuant to Article 10.9.1(a), do not apply

to the non-conforming aspects of the law, regulation, or other measures, as set out in paragraph 4;

- (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; and
- (f) **Description** provides a general, non-binding description of the measure for which the entry is made.

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) **Sub-sector** refers to the specific sector for which the entry is made;
- (c) **Obligations Concerned** specifies the articles(s) referred to in paragraph 1 (c) that, pursuant to Article 10.9.2, do not apply to the sectors, subsectors, or activities scheduled in the entry;
- (d) **Level of Government** indicates the level of government maintaining the listed measure(s);
- (e) **Description** sets out the scope of the sectors, subsectors, or activities covered by the entry; and
- (f) **Existing Measures** identify, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, subsectors, or activities covered by the entry.

4. In the interpretation of a non-conforming measure in Section A, all elements shall be considered. A non-conforming measure shall be interpreted in the light of the relevant provisions of the Chapter with respect to which the entry is taken. 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. In the interpretation of a non-conforming measure in Section B, all elements shall be considered. The **Description** element shall prevail over all other elements.

6. Appendix III-1 lists certain measures that the Parties consider to be not inconsistent with Article 10.2 (National Treatment) or Article 10.4 (Market Access for Financial Institutions) or subject to Article 10.10.1.

7. For Ecuador, a limited company refers to an entity constituted under section V Limited Company (*De la Compañía de Responsabilidad Limitada*) of the *Companies Law* and, a stock company refers to an entity constituted under Section VI Stock Company (*Compañía Anónima*) of the *Companies Law*.

## **Headnotes**

1. Commitments in these subsectors under this Agreement are made subject to the limitations and conditions set out in these headnotes and in this Schedule.
2. For greater clarity regarding the commitments of Ecuador under Article 10.4 (Market Access for Financial Institutions), financial institutions incorporated under the law of Ecuador are subject to non-discriminatory limitations on juridical form.
3. Article 10.9.1(c) shall not apply to non-conforming measures related to Article 10.4 (Market Access for Financial Institutions) with respect to specific types of juridical form.

## Section A

<b>1. Sector:</b>	Financial Services
<b>Sub-sector:</b>	Central Securities Depositories for Securities Clearance and Settlement
<b>Obligations Concerned:</b>	National Treatment (Article 10.2)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<p><i>Monetary and Financial Organic Code</i>; Official Gazette, Supplement 332, of 12 September 2014 (last reform of 22 December 2022); Book I: Article 60</p> <p><i>Codification of the Resolutions of Monetary, Financial, Securities and Insurance</i>, Book II Stock Market, Title XI: Centralized Depositories for Clearing and Settling of Values; Section I: Of the Establishment and Operating Permit</p>
<b>Description:</b>	In the stock companies of Central Securities Depositories for Securities Clearance and Settlement, each shareholder may not own more than five percent of the amount of the subscribed capital, with the exception of stock exchanges and legally authorized public sector entities of the country, which may exceed this percentage.

<b>2. Sector:</b>	Financial Services
<b>Sub-sector:</b>	All
<b>Obligations Concerned:</b>	National Treatment (Article 10.2) Market Access for Financial Institutions (Article 10.4)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Monetary and Financial Organic Code</i> ; Official Gazette, Supplement 332, of 12 September 2014 (last reform of 22 December 2022); Book I, Articles 14.1 (f), 162, 179, and 194; Book II
<b>Description:</b>	<p>Foreign financial institutions that intend to establish branches in Ecuador, to exercise financial activities or to constitute representative offices, must obtain prior authorization from national control bodies. Branches must be previously domiciled in Ecuador.</p> <p>The representative offices of foreign financial institutions will only serve to act as information centers to their clients. They may not solicit funds or deposits in Ecuador to be placed abroad, neither may they offer or invest in Ecuador securities issued abroad<sup>1</sup>.</p> <p>Branches are not permitted in the securities market institutions.</p> <p>The Financial Policy and Regulation Board has the power to establish moratoriums for the constitution of new entities in the financial, securities and insurance sectors.</p>

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<sup>1</sup> For greater certainty, foreign financial institutions mentioned in paragraphs 1 and 2 refer to banking entities and financial services entities other than banking entities that carry out the activities listed in subparagraphs (e) to (k) in the Article 10.19 (Definitions).

<b>3. Sector:</b>	Financial Services
<b>Sub-sector:</b>	All
<b>Obligations Concerned:</b>	Market Access for Financial Institutions (Article 10.4)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Monetary and Financial Organic Code</i> ; Official Gazette, Supplement 332, of 12 September 2014 (last reform of 22 December 2022); Book I: Articles 389, 428, and 434; Book II: Articles 44, 56, 97, 98 and 176; Book III: Articles 2, 3, 4, and 5
<b>Description:</b>	<p>Private financial entities<sup>2</sup> and financial services entities<sup>3</sup> shall be incorporated before the Superintendency of Banks as stock companies; and, auxiliary service entities shall be incorporated as stock companies or limited companies.</p> <p>The same provision with respect to the legal form of a stock company applies to insurance and reinsurance companies, insurance intermediary companies; stock exchanges; brokerage houses, fund administrators and trusts; central securities depositories for securities clearance and settlement; and risk rating agencies.</p> <p>Only exceptionally and with the authorization of the Superintendency of Banks, auxiliary service companies with capital owned by entities in the financial sector may provide services to other types of natural or legal persons outside the national financial system.</p>

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<sup>2</sup> For greater certainty, private financial entities include banks.

<sup>3</sup> For greater certainty, financial services entities include deposit warehouses, foreign currency exchange office, and secondary mortgage market development corporations.

<b>4. Sector:</b>	Financial Services
<b>Sub-sector:</b>	Credit Reference Services
<b>Obligations Concerned:</b>	Market Access for Financial Institutions (Article 10.4) Cross-Border Trade (Article 10.5)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Monetary and Financial Organic Code</i> ; Official Gazette, Supplement 332, of 12 September 2014 (last reform of 22 December 2022); Book I: Article 357  <i>Resolution No. 485-2018-F, Of the Credit Data Registry Service and of the Credit Information Bureaus</i> , Official Gazette 408, of 17 January 2019
<b>Description:</b>	The credit reference service will be provided by the Superintendency of Banks and by the legal entities constituted as stock companies or limited companies in Ecuador, whose sole object stipulated in articles of company is the provision of the credit reference service, may acquire this authorization.



<b>5. Sector:</b>	Financial Services
<b>Sub-sector:</b>	All
<b>Obligations Concerned:</b>	National Treatment (Article 10.2) Most-Favored-Nation Treatment (Article 10.3) Market Access for Financial Institutions (Article 10.4) Cross-Border Trade (Article 10.5)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<p><i>Monetary and Financial Organic Code</i>; Official Gazette; Supplement 332, of 12 September 2014 (last reform of 22 December 2022); Book I: Article 237; Book II: Article 176</p> <p><i>Codification of Monetary, Financial, Securities and Insurance Resolutions</i>, Book II: Stock Market, Title XVI: Risk Rating; Chapter II: Risk rating; Section II: Criteria and categories and Title IV: Common Provisions for Registration in the Public Registry of the Stock Market; Chapter II: Private Sector Issuers; Section II: Maintenance of the Registration in the Public Registry of the Stock Market and Transfer of Continuous Information</p> <p><i>Resolution No. SCVS-INS-2016-002, of the Superintendency of Companies, Securities and Insurance</i></p>
<b>Description:</b>	<p>The risk rating may be carried out by national juridical persons or foreign risk rating companies, or associated with each other, constituted as stock companies or limited companies, with experience and recognized international prestige, qualified as suitable by the control bodies.</p> <p>The foreign risk rating agency or that associated with the domestic insurance and reinsurance company shall register a significant participation in the rating of financial institutions or insurance companies or reinsurance companies internationally in at least three countries and</p>

have been rated by the supervisory authority of its home country.

For greater certainty, the risk rating of the insurance companies or reinsurance companies can only be carried out by legal persons that are registered in the “register of risk rating agencies”.

In the event of a secondary public offering in the Ecuadorian securities market, of securities issued abroad, the risk rating with respect to such issuance made by a risk rating agency recognized by the SEC (U.S. Securities and Exchange Commission), such as NRSRO (Nationally Recognized Statistical Rating Organizations), will be accepted.

In the case of multilateral issuers recognized as local issuers, which make a primary public offer in the Ecuadorian securities market, the same rule will apply.

The Ecuadorian stock exchange in which the securities of foreign issuers are registered and traded is obliged to sign an agreement with the exchange of the sovereign state of origin; or with the stock exchange or institution of international prestige in which the securities of the foreign issuer are registered.

<b>6. Sector:</b>	Insurance Services
<b>Sub-sector:</b>	
<b>Obligations Concerned:</b>	National Treatment (Article 10.2)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Monetary and Financial Organic Code</i> ; Official Gazette, Supplement 332, of 12 September 2014 (last reform of 22 December 2022); Book III: Article 17
<b>Description:</b>	Foreigners who are not domiciled or authorized to work in the country may not be members of the board of directors, administrators, officials or employees of those who make up the private insurance system; except in the case of principal or alternate directors.

<b>7. Sector:</b>	Insurance and Insurance Related Services <sup>4</sup>
<b>Sub-sector:</b>	
<b>Obligations Concerned:</b>	National Treatment (Article 10.2) Cross-Border Trade (Article 10.5)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Monetary and Financial Organic Code</i> ; Official Gazette, Supplement 332, of 12 September 2014 (last reform of 22 December 2022); Book III: Article 66
<b>Description:</b>	<p>It is forbidden to enter into the following insurance contracts, in Ecuadorian territory, with insurance companies not constituted or organized under the country's law:</p> <ul style="list-style-type: none"> <li>(a) insurance of persons, when the insured is in Ecuador at the time the contract is concluded;</li> <li>(b) fire insurance and additional risks insurance for property located in the national territory;</li> <li>(c) hull insurance for sea vessels or aircrafts, when they are under Ecuadorian registration;</li> <li>(d) insurance for the transportation of merchandise or goods imported into the country;</li> <li>(e) civil liability insurance, derived from events that may occur in Ecuador; and</li> <li>(f) insurance of the other branches against risks that may occur in</li> </ul>

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<sup>4</sup> For greater certainty, in the event of any inconsistency between the insurance and insurance related services established in Annex 10-A and this entry, Annex 10-A should prevail to the extent of the inconsistency.

Ecuadorian territory. Insurance that non-residents in Ecuadorian territory contract outside of it for their persons or their vehicles, to cover risks during their eventual hospitalizations, will not be considered as such.

In the event that insurance companies authorized to operate in the country cannot assume a certain risk, the interested party with the prior authorization of the Superintendent of Companies, Securities and Insurance, may take out insurance for that risk abroad.

<b>8. Sector:</b>	Financial Services
<b>Sub-sector:</b>	Securities
<b>Obligations Concerned:</b>	Most-Favored-Nation Treatment (Article 10.3)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Monetary and Financial Organic Code</i> ; Official Gazette: Supplement 332, of 12 September 2014 (last reform of 22 December 2022); Book II: Article 46
<b>Description:</b>	A shareholder of a stock exchange may not own or accumulate, directly or indirectly, a percentage greater than 10 percent of issued and outstanding shares of that exchange. By exception, and in order to promote the regional integration and develop the Ecuadorian stock market, the stock exchanges or regulated markets, qualified as such by the Superintendency of Companies, Securities and Insurance, may exceed this participation limit up to a maximum of 30 percent.

<b>9. Sector:</b>	Financial Services
<b>Sub-sector:</b>	Fund and Trust Administrators
<b>Obligations Concerned:</b>	National Treatment (Article 10.2) Cross-Border Trade (Article 10.5)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Monetary and Financial Organic Code</i> ; Official Gazette, Supplement 332, of 12 September 2014 (last reform of 22 December 2022); Book II, Article 77
<b>Description:</b>	<p>The funds constituted abroad that attract resources from residents in Ecuador, must operate through a fund manager company constituted or organized under the country's law. For this purpose, the funds and the fund manager company must sign the respective representation agreement, with fiduciary responsibility, and comply with the information requirements of the Superintendency of Companies, Securities and Insurance.</p> <p>The administrators of funds and trusts constituted in Ecuador will be the only institutions authorized to manage or represent international funds.</p>

<b>10. Sector:</b>	Financial Services
<b>Sub-sector:</b>	Investment Banking
<b>Obligations Concerned:</b>	National Treatment (Article 10.2) Market Access for Financial Institutions (Article 10.4)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Monetary and Financial Organic Code</i> ; Official Gazette, Supplement 332, of 12 September 2014 (last reform of 22 December 2022); Book II, First Article that is not numbered after Article 59
<b>Description:</b>	<p>Only brokerage houses (<i>casas de valores</i>) and the Bank of the Ecuadorian Social Security Institute may carry out investment banking activities.</p> <p>For greater certainty, investment banking activity is the specialized activity of finding investment and financing options through the stock market.</p>



## Section B

<b>1. Sector:</b>	Financial Services
<b>Sub-sector:</b>	All
<b>Obligations Concerned:</b>	National Treatment (Article 10.2)
<b>Level of Government:</b>	Central
<b>Description:</b>	<p>Ecuador reserves the right to grant advantages or exclusive rights, without limitation, to one or more of the following public financial institutions:</p> <ul style="list-style-type: none"><li>(a) National Corporation of Popular and Solidarity Finance (<i>Corporación Nacional de Finanzas Populares y Solidarias</i>), or its successor;</li><li>(b) National Finance Corporation B.O. (<i>Corporación Financiera Nacional B.P.</i>), or its successor;</li><li>(c) Bank of the Ecuadorian Institute of Social Security (<i>Banco del Instituto Ecuatoriano de Seguridad Social</i>), or its successor;</li><li>(d) Development Bank of Ecuador B.P. (<i>Banco de Desarrollo del Ecuador B.P.</i>), or its successor; and</li><li>(e) <i>BANECUADOR B.P.</i>, or its successor.</li></ul>
<b>Existing Measures:</b>	<i>Monetary and Financial Organic Code</i> ; Official Gazette, Supplement 332, of 12 September 2014 (last reform of 22 December 2022); Book I: Article 386

<b>2. Sector:</b>	Financial Services
<b>Sub-sector:</b>	All
<b>Obligations Concerned:</b>	National Treatment (Article 10.2) Market Access for Financial Institutions (Article 10.4)
<b>Level of Government:</b>	Central
<b>Description:</b>	<p>Ecuador reserves the right to establish limitations or not to allow to open parent or operating offices, of institutions of the popular and solidarity financial sector such as: savings and credit cooperatives, associative or solidarity entities, communal banks and funds, savings funds and any other legal form or denominations that are contemplated in the country of origin and that correspond to this sector.</p> <p>The service initiatives of the popular and solidarity financial sector, and of the micro, small and medium sized productive units, will receive differentiated and preferential treatment from the State, to the extent that they promote the development of the popular and solidarity economy.</p>
<b>Existing Measures:</b>	<p><i>Constitution of the Republic of Ecuador</i>; Official Gazette 449, of 20 October 2008; Article 311</p> <p><i>Monetary and Financial Organic Code</i>; Official Gazette, Supplement 332, of 12 September 2014 (last reform of 22 December 2022); Book I: Articles 160 and 163</p>

<b>3. Sector:</b>	Financial Services
<b>Sub-sector:</b>	All
<b>Obligations Concerned:</b>	National Treatment (Article 10.2) Market Access for Financial Institutions (Article 10.4) Senior Management and Boards of Directors (Article 10.8)
<b>Level of Government:</b>	Central
<b>Description:</b>	When transferring or disposing of its stake in the capital, or assets of an existing state-owned enterprise or existing government entity, Ecuador reserves the right to prohibit or impose limitations on the ownership of such stake in the capital or assets, and on the right of foreign investors or their investments to control any resulting state-owned enterprise. Regarding such transfer or disposition, Ecuador may adopt or maintain any measure related to the nationality of senior management executives and members of the board of directors.

For purposes of this entry:

- (a) Any provision on the right of ownership maintained or adopted after the effective date of this Agreement which, at the time of sale or other form of disposition, prohibits or imposes limitations on participation in equity interests or assets or imposes nationality requirements described in this reservation, shall be deemed to be a measure in force.
- (b) State-owned enterprise means a public enterprise owned or controlled by Ecuador or a joint venture, through a stake in its ownership and includes an enterprise established after the date of entry into force of this

Agreement solely for the purpose of selling or disposing of the equity interest in, or in the assets of, a state-owned enterprise or an existing government entity.

<b>4. Sector:</b>	Financial Services
<b>Sub-sector:</b>	Insurance and Reinsurance
<b>Obligations Concerned:</b>	National Treatment (Article 10.2) Cross-Border Trade (Article 10.5)
<b>Level of Government:</b>	Central
<b>Description:</b>	<p>In order to be able to operate in Ecuador, non-resident insurance and reinsurance companies, intermediaries and providers of services auxiliary to insurance must register and renew their registration in accordance with the rules laid down in the law of Ecuador.</p> <p>Ecuador reserves the right to adopt measures geared towards assigning the provision of specific services associated with the management of public resources to insurance or reinsurance companies that are partially or totally owned by the State.</p> <p>Foreign insurance and reinsurance companies and intermediaries of foreign insurance and reinsurance companies may not open representation offices.</p>

**Appendix III-1**  
**Certain Measures Not Inconsistent with Article 10.2 (National Treatment) or Article 10.4 (Market Access for Financial Institutions) or Subject to 10.10 (Exceptions)**

The following measures are not inconsistent with Article 10.4 (Market Access for Financial Institutions). Any revision, amendment or modification of the following measure or related laws will not be construed to be inconsistent with Article 10.4 (Market Access for Financial Institutions):

- (1) Institutions in the private financing system and their directors may not, either directly or indirectly, hold shares and interest in undertakings or commercial companies outside the financial sector, with presence or activity in the Ecuadorian market.

This prohibition does not apply to shareholders, that individually or through economic, corporate and/or family business ties and together, hold less than 25 percent of the share capital of a financial institution, who may, either directly or indirectly, hold shares and interest in undertakings or commercial companies outside the financial sector.

In accordance with Article 10.10 (Exceptions), Ecuador reaffirms that nothing in this Agreement prevents it from adopting or maintaining measures for prudential reasons.

Without prejudice to Article 10.10 (Exceptions), any measure that Ecuador adopts or maintains in its legislation that is equivalent or has an effect equivalent to the measures set forth in Appendix III-A of Korea, shall not be construed to be inconsistent with Articles 10.2 (National Treatment) or 10.4 (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 10.2 (National Treatment) or 10.4 (Market Access for Financial Institutions), to the extent that it does not conflict with the spirit of the original measure.