

ANNEX III

FINANCIAL SERVICES NON-CONFORMING MEASURES

Schedule of New Zealand

Headnotes

1. The commitments of New Zealand under Chapter 11 (Financial Services) are undertaken subject to the limitations and conditions set out in these Headnotes and the Schedule below.
2. The Schedule below sets out:
 - (a) in Section A, under Article 11.19 (Non-Conforming Measures – Financial Services), the entries made by New Zealand with respect to existing measures that do not conform with obligations imposed by:
 - (i) Article 11.5 (National Treatment – Financial Services);
 - (ii) Article 11.6 (Market Access – Financial Services); or
 - (iii) Article 11.10 (Senior Management and Boards of Directors – Financial Services); and
 - (b) in Section B, under Article 11.19 (Non-Conforming Measures – Financial Services), the entries made by New Zealand with respect to existing or future measures that do not conform with obligations imposed by:
 - (i) Article 11.5 (National Treatment – Financial Services);
 - (ii) Article 11.6 (Market Access – Financial Services); or
 - (iii) Article 11.10 (Senior Management and Boards of Directors – Financial Services).
3. Each entry in Section A sets out the following elements:
 - (a) “Sector” refers to the sector for which the entry is made;
 - (b) “Sub-Sector”, where referenced, refers to the specific sub-sector for which the entry is made;
 - (c) “Obligations Concerned” specifies the obligations referred to in paragraph 2 that, pursuant to Article 11.19 (Non-Conforming

- Measures – Financial Services), do not apply to the listed measure or measures covered by the entry;
- (d) “Level of Government” indicates the level of government adopting or maintaining the listed measures;
 - (e) “Measures” identifies the laws 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” sets out the non-conforming aspects of the existing measure for which the entry is made.
4. Each entry in Section B sets out the following elements:
- (a) “Sector” refers to the sector for which the entry is made;
 - (b) “Sub-Sector”, where referenced, refers to the specific sub-sector for which the entry is made;
 - (c) “Obligations Concerned” specifies the obligations referred to in paragraph 2 that, pursuant to Article 11.19 (Non-Conforming Measures – Financial Services), do not apply to the sectors, sub-sectors, or activities listed in the entry;
 - (d) “Level of Government” indicates the level of government adopting or maintaining the listed measures;
 - (e) “Description” sets out the scope or nature of the sectors, sub-sectors, or activities covered by the entry; and
 - (f) “Existing Measures”, where provided, identifies for transparency purposes, a non-exhaustive list of existing measures that apply to the sector, sub-sector, or activities covered by the entry.
5. For entries in Section A, all elements of the entry shall be considered in their totality for the purposes of its interpretation.
6. For entries in Section B, where an inconsistency arises in relation to the interpretation of an entry, the “Description” element of the entry shall prevail to the extent of the inconsistency.

7. To clarify New Zealand's commitment with respect to Article 11.6 (Market Access – Financial Services), juridical persons supplying financial services and constituted under the laws of New Zealand are subject to non-discriminatory limitations on juridical form.¹
8. Subparagraph 1(c) of Article 11.19 (Non-Conforming Measures – Financial Services) shall not apply to a non-conforming measure relating to subparagraph (1)(e) of Article 11.6 (Market Access – Financial Services).
9. For transparency purposes and in accordance with Article 11.19 (Non-Conforming Measures – Financial Services), non-conforming measures set out in New Zealand's Schedules to Annex I (Cross-Border Trade in Services and Investment Non-Conforming Measures) and Annex II (Cross-Border Trade in Services and Investment Non-Conforming Measures) as not subject to Article 9.5 (National Treatment – Cross-Border Trade in Services), Article 14.6 (National Treatment – Investment), or Article 14.9 (Senior Management and Boards of Directors – Investment), including those entries that apply to all sectors or financial services, shall be treated as non-conforming measures not subject to Article 11.5 (National Treatment – Financial Services) and Article 11.10 (Senior Management and Boards of Directors – Financial Services), to the extent that the measure, sector, subsector, or activity set out in the entry is covered by Chapter 11 (Financial Services).
10. For greater certainty, the measures that New Zealand may take in accordance with Article 11.4 (Prudential Exception – Financial Services), provided they meet the requirements of that Article, include those governing:
 - (a) licencing, registration, or authorisation as a financial institution or cross-border financial service supplier, and corresponding requirements;
 - (b) juridical form including legal incorporation requirements for systemically important financial institutions and limitations on deposit-taking activities of branches of overseas banks, and corresponding requirements;
 - (c) requirements pertaining to directors and senior management of a financial institution or cross-border financial service supplier;
 - (d) capital, related party exposures, liquidity, disclosure, and other risk management requirements;
 - (e) payment, clearance, and settlement systems (including securities systems);

¹ For example, partnerships and sole proprietorships are generally not acceptable juridical forms for authorised depository institutions in New Zealand. These Headnotes are not in itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.

- (f) anti-money laundering and countering financing of terrorism; and
- (g) distress or failure of a financial institution or cross-border financial service supplier.

Section A

Entry No. III-A-1

Sector	Financial Services
Sub-Sector	Insurance and insurance-related services
Obligations Concerned	National Treatment Market Access
Measures	<i>Commodity Levies Act 1990</i> <i>Commodity Levies Amendment Act 1995</i> <i>Kiwifruit Industry Restructuring Act 1999</i> and regulations
Description	<p>The provision of crop insurance for wheat can be restricted in accordance with the <i>Commodity Levies Amendment Act 1995</i> (“CLA”). Section 4 of the CLA provides for the use of funds derived under a mandatory commodity levy on wheat growers to be used for the purpose of funding a scheme insuring wheat crops against damage or loss.</p> <p>The provision of insurance intermediation services related to the export of kiwifruit can be restricted in accordance with the <i>Kiwifruit Industry Restructuring Act 1999</i> and regulations relating to the export marketing of kiwifruit.</p>

Entry No. III-A-2

Sector	Financial services
Sub-Sector	Banking and other financial services (excluding insurance)
Obligations Concerned	Senior Management and Boards of Directors
Measures	<i>KiwiSaver Act 2006</i> <i>Financial Markets Conduct Act 2013</i>
Description	The fund manager of a registered KiwiSaver scheme and the corporate trustee of a registered KiwiSaver scheme that is a restricted scheme must both have at least one director that is a New Zealand resident for tax purposes.

Section B

Entry No. III-B-1

Sector	Financial Services
Sub-Sector	Insurance and insurance-related services
Obligations Concerned	National Treatment Senior Management and Boards of Directors Market Access
Description	<p>New Zealand reserves the right to adopt or maintain any measure with respect to the supply of:</p> <p>(a) compulsory social insurance for personal injury caused by accident, work related gradual process disease and infection, and treatment injury; and</p> <p>(b) disaster insurance for residential property for replacement cover up to a defined statutory maximum.</p>
Existing Measures	<i>Accident Compensation Act 2001</i> <i>Earthquake Commission Act 1993</i>

Entry No. III-B-2

Sector	Financial Services
Sub-Sector	Banking and other financial services (excluding insurance)
Obligations Concerned	National Treatment Market Access Senior Management and Boards of Directors
Description	New Zealand reserves the right to adopt or maintain any measures with respect to the establishment or operation of any unit trust, market, or other facility established for the trade in, or allotment or management of, securities in the co-operative dairy company arising from the amalgamation authorised under the <i>Dairy Industry Restructuring Act 2001</i> (or any successor body).

Entry No. III-B-3

Sector	Financial Services
Sub-Sector	Insurance and insurance-related services
Obligations Concerned	National Treatment Market Access
Description	<p>New Zealand reserves the right to adopt or maintain any measure with respect to insurance and insurance-related services for industry marketing boards established for products under the following CPC codes:</p> <ul style="list-style-type: none">(a) 01, except 01110 and 01340 (products of agriculture, horticulture, and market gardening, except wheat and kiwifruit);(b) 02 (live animals and animal products);(c) 211, except 21111, 21112, 21115, 21116 and 21119 (meat and meat products, except beef, sheep meat, poultry, and offal);(d) 213-216 (prepared and preserved vegetables, fruit juices and vegetable juices, prepared and preserved fruit and nuts, animal and vegetable oils and fats);(e) 22 (dairy);(f) 2399 ('other food products'); and(g) 261, except for 2613, 2614, 2615, 02961, 02962 and 02963 (natural textile fibres prepared for spinning, excluding wool).
Existing Measures	<i>Commodity Levies Act 1990</i>

Entry No. III-B-4

Sector	Financial Services
Sub-Sector	All
Obligations Concerned	Senior Management and Boards of Directors
Description	<p>New Zealand reserves the right to adopt or maintain any measure that requires all companies to have one or more directors, of whom at least one must:</p> <ul style="list-style-type: none">(a) live in New Zealand; or(b) live in an “enforcement country”² and be a director of a company that is registered (except as the equivalent of an overseas company) in that enforcement country.

² “enforcement country” means a country that has an agreement with New Zealand that allows for the recognition and enforcement in that country of New Zealand judgements imposing regulatory regime criminal fines.

Entry No. III-B-5

Sector	Financial Services
Sub-Sector	All
Obligations Concerned	Market Access National Treatment
Description	<p>New Zealand reserves the right to adopt or maintain any measure with respect to:</p> <ul style="list-style-type: none">(a) the provision of public law enforcement and correctional services; and(b) the following, to the extent that they are social services established for a public purpose:<ul style="list-style-type: none">(i) childcare;(ii) health;(iii) income security and insurance;(iv) public education;(v) public housing;(vi) public training;(vii) public transport;(viii) public utilities;(ix) social security and insurance; and(x) social welfare. <p>For Market Access (Cross-Border Trade in Services), the scope of this entry is limited to the sector of Financial Services.</p>

Entry No. III-B-6

Sector	Financial Services
Sub-Sector	All
Obligations Concerned	National Treatment
Description	New Zealand reserves the right to adopt or maintain any measure that provides a subsidy or grant to any entities that are controlled, or wholly or partially owned, by the government that may conduct financial operations, including measures taken in relation to the privatisation of such entities.

Entry No. III-B-7

Sector	Financial Services
Sub-Sector	All
Obligations Concerned	National Treatment
Description	<p>New Zealand reserves the right to adopt or maintain any measure that provides a subsidy or grant to an entity that is systemically important to the infrastructure of the financial market, including:</p> <ul style="list-style-type: none">(a) exchanges;(b) clearing and settlement facilities; and(c) market operators.

Entry No. III-B-8

Sector	Financial Services
Sub-Sector	Banking and other financial services (excluding insurance)
Obligations Concerned	National Treatment Market Access
Description	<p>New Zealand reserves the right to adopt or maintain any measure with respect to the establishment or operation of exchanges, securities markets, or futures markets.</p> <p>For greater certainty, this entry does not apply to financial institutions participating in, or seeking to participate in, any such exchange, securities market, or futures market.</p>

ANNEX III

FINANCIAL SERVICES NON-CONFORMING MEASURES

Schedule of the United Kingdom

Headnotes

1. The commitments of the United Kingdom under Chapter 11 (Financial Services) are undertaken subject to these Headnotes and the Schedule below.
2. The Schedule below sets out:
 - (a) in Section A, under Article 11.19 (Non-Conforming Measures – Financial Services), the entries made by the United Kingdom with respect to existing measures that do not conform with obligations imposed by:
 - (i) Article 11.5 (National Treatment – Financial Services);
 - (ii) Article 11.6 (Market Access – Financial Services); or
 - (iii) Article 11.10 (Senior Management and Boards of Directors – Financial Services); and
 - (b) in Section B, under Article 11.19 (Non-Conforming Measures – Financial Services), the entries made by the United Kingdom with respect to existing or future measures that do not conform with obligations imposed by:
 - (i) Article 11.5 (National Treatment – Financial Services);
 - (ii) Article 11.6 (Market Access – Financial Services); or
 - (iii) Article 11.10 (Senior Management and Boards of Directors – Financial Services).
3. Each entry in Section A sets out the following elements:
 - (a) “Sector” refers to the sector for which the entry is made;
 - (b) “Sub-Sector”, where referenced, refers to the specific sub-sector for which the entry is made;
 - (c) “Obligations Concerned” specifies the obligations referred to in paragraph 2 that, pursuant to Article 11.19 (Non-Conforming Measures – Financial Services), do not apply to the listed measure or measures covered by the entry;

- (d) “Level of Government” indicates the level of government adopting or maintaining the listed measures;
 - (e) “Measures” identifies the laws or other measures for which the reservation is taken. 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” sets out the non-conforming aspects of the existing measure for which the reservation is taken.
4. Each entry in Section B sets out the following elements:
- (a) “Sector” refers to the sector for which the reservation is made;
 - (b) “Sub-Sector”, where referenced, refers to the specific sub-sector for which the entry is made;
 - (c) “Obligations Concerned” specifies the obligations referred to in paragraph 2 that, pursuant to Article 11.19 (Non-Conforming Measures – Financial Services), do not apply to the sectors, sub-sectors, or activities listed in the entry;
 - (d) “Level of Government” indicates the level of government adopting or maintaining the listed measure;
 - (e) “Description” sets out the scope or nature of the sectors, sub-sectors, or activities covered by the entry; and
 - (f) “Existing Measures”, where provided, identifies for transparency purposes, a non-exhaustive list of existing measures that apply to the sector, sub-sector, or activities covered by the entry.
5. For greater certainty, measures falling under exceptions applicable to this Chapter, such as those in Article 11.3 (Specific Exceptions – Financial Services) and Article 11.4 (Prudential Exception – Financial Services), need not be scheduled. The listing of a measure is without prejudice to whether that measure or any other measure is covered by exceptions such as those in Article 11.3 (Specific Exceptions – Financial Services) and Article 11.4 (Prudential Exception – Financial Services).
6. For greater certainty, for prudential reasons within the context of Article 11.4 (Prudential Exception – Financial Services), the United Kingdom shall not

be prevented from applying measures to branches established in the United Kingdom by enterprises incorporated in New Zealand.

7. In the interpretation of an entry in Section B, all elements of the entry shall be considered. The “Description” element shall prevail over all other elements.

Section A

NONE

Section B

Entry No. III-B-1

Sector – Sub-sector	Financial Services – Banking and other financial services (excluding insurance)
Obligations Concerned	Market Access
Level of Government	Central
Description	Only firms having their place of business in the United Kingdom can act as depositaries of the assets of investment funds. The establishment of a specialised management company, incorporated in the United Kingdom and having a place of business in the United Kingdom, is required to perform the activities of management of common funds, including unit trusts, and investment companies.

Entry No. III-B-2

Sector	All Financial Services
Obligations Concerned	Market Access
Level of Government	Central
Description	A financial service supplier, other than a branch, when establishing in the United Kingdom may be required to adopt a specific legal form, on a non-discriminatory basis.