

Annex XX

(Financial Services Non-Conforming Measures)

SCHEDULE OF CHILE

HEADNOTES

1. Commitments in the financial services sector under Chapter XX (Financial Services) are undertaken subject to the limitations and conditions set forth in these headnotes and the Schedule below.
2. Juridical persons supplying financial services and constituted under the laws of Chile are subject to non-discriminatory limitations on juridical form. For example, partnerships (*sociedades de personas*) are generally not acceptable juridical forms for financial institutions in Chile. This headnote is not in and of itself intended to affect or otherwise limit a choice by a financial institution of the other Party between branches and subsidiaries unless the regulation so provides.

Section C / Existing Measures

Sector:	Financial Services
Sub-Sector:	Banking and other financial services
Obligations Concerned:	National Treatment (Article FS.3) Senior Management and Boards of Directors (Article FS.7)
Level of Government:	Central
Measures:	<i>Ley N° 18.045</i> , Official Gazette of October 22, 1981, <i>Ley de Mercado de Valores</i> , Titles VI and VII, Articles 24, 26 and 27
Description:	The directors, administrators, managers or legal representatives of legal entities or natural persons performing the activities of stockbroker and securities agent, must be Chileans or foreigners with a permanent residence permit.

Section C / Existing Measures

Sector:	Financial Services
Sub-Sector:	Insurance and insurance-related services
Obligations Concerned:	National Treatment (Article FS.3)
Level of Government:	Central
Measures:	Decreto con Fuerza de Ley N° 251, Official Gazette of May 22, 1931, Ley de Seguros, Title I, Article 16.
Description:	Reinsurance brokerage can be performed by foreign reinsurance brokers. These brokers shall be juridical persons, demonstrate that the entity is legally organised in its country of origin and authorised to intermediate risks ceded from abroad, and provide the date that such authorisation was granted. Such entities shall designate a representative in Chile to represent them with broad powers. The representative may be subject to summons and must have residence in Chile.

Section C / Existing Measures

Sector:	Financial Services
Sub-Sector:	Insurance and insurance-related services
Obligation Concerned:	National Treatment (Article FS.3) Senior Management and Board Directors (Article FS.7)
Level of Government:	Central
Measure:	Decreto con Fuerza de Ley 251, Official Gazette of May 22, 1931, Ley de Seguros, Title III, Articles 58, 62 Decreto Supremo N° 863 de 1989 del Ministerio de Hacienda, Official Gazette of April 5, 1990, Reglamento de los Auxiliares del Comercio de Seguros, Title I, Article 2, letter (c).
Description:	Administrators and legal representatives of legal entities and natural persons performing the activity of claim settlement and insurance brokerage must be Chileans or foreigners with a permanent residence permit.

Section C / Existing Measures

Sector:	Financial Services
Sub-Sector:	Insurance and insurance-related services
Obligations Concerned:	National Treatment (Article FS.3)
Level of Government:	Central
Measures:	Decreto con Fuerza de Ley N° 251, Official Gazette of May 22, 1931, Ley de Seguros, Title I, Article 20.
Description:	In the case of the types of insurance covered in Decreto Ley 3.500, involving the cession of reinsurance to foreign reinsurers, the deduction for reinsurance cannot exceed 40 per cent of the total of the technical reserves associated with those types of insurance or a higher percentage if set by the Financial Market Commission (<i>Comisión para el Mercado Financiero</i>).

Section C / Existing Measures

Sector:	Financial Services
Sub-Sector:	Insurance and insurance-related services
Obligations Concerned:	National Treatment (Article FS.3)
Level of Government:	Central
Measures:	Decreto con Fuerza de Ley N° 251, Diario Oficial, May 22, 1931, Ley de Seguros, Title I.
Description:	<p>The reinsurance activity may be provided by foreign entities classified, according to risk rating agencies of international well-known reputation as indicated by the Financial Market Commission (<i>Comisión para el Mercado Financiero</i>), at least in the risk category BBB or other equivalent to it. These entities shall have a representative in Chile who will represent them with broad powers. The representative may be subject to summons. Notwithstanding the aforementioned, the designation of a representative will not be necessary if a reinsurer broker, registered on the records of the Commission, carries out the reinsurance operation. For all purposes, especially for those relating to the application and performance in the country of the reinsurance contract, this broker shall be considered the legal representative of the reinsurers.</p>

Section C / Existing Measures

Sector:	Financial Services
Subsector:	Banking and Other Financial Services
Obligations Concerned:	National Treatment (Article FS.3)
Measures:	Ley N° 18.045, Official Gazette of October 22, 1981, Ley de Mercado de Valores, Titles VI and VII, Articles 24 and 26.
Description:	Natural persons performing the activity of stockbroker and securities agent in Chile must be Chileans or foreigners with a residence permit.

Section C / Existing Measures

Sector:	All
Sub-Sector:	
Obligations Concerned:	National Treatment (Article FS.X) Senior Management and Boards of Directors (Article FS.8) Performance Requirements (Article FS.X)
Level of Government:	Central
Measures:	D.F.L. 1 of the Ministry of Labour and Social Welfare, Official Gazette, January 24, 1994, Labour Code, Preliminary Title, Book I, Chapter III (D.F.L. 1 del Ministerio del Trabajo y Previsión Social, Diario Oficial, enero 24, 1994, Código del Trabajo, Título Preliminar, Libro I, Capítulo III)
Description:	A minimum of 85 per cent of employees who work for the same employer shall be Chilean natural persons or foreigners with more than five years of residence in Chile. This rule applies to employers with more than 25 employees under a contract of employment (contrato de trabajo ¹). Expert technical personnel shall not be subject to this provision, as determined by the Directorate of Labour (Dirección del Trabajo). An employee shall be understood to mean any natural person who supplies intellectual or material services, under dependency or subordination, pursuant to a contract of employment.

¹ For greater certainty, a contract of employment (contrato de trabajo) is not mandatory for the supply of cross-border trade in services.

Section D / Future Measures

Sector:	Financial Services
Sub-Sector:	All
Obligations Concerned:	Cross-Border Supply of Financial Services (Article FS.6)
Level of Government:	Central
Description:	The purchase of financial services, by persons located in the territory of Chile and its nationals wherever located, from financial services suppliers of another Party shall be subject to the foreign exchange regulations adopted or maintained by the Banco Central de Chile in accordance with its Organic Law (Ley 18.840).
Existing Measures:	Ley 18.840, Official Gazette of October 10, 1989, Ley Orgánica Constitucional del Banco Central de Chile, Title III

Section D / Future Measures

Sector:	Financial Services
Sub-Sector:	Banking and other financial services
Obligations Concerned:	National Treatment (Article FS.3)
Level of Government:	Central
Description:	<p>Chile may adopt or maintain measures to grant Banco del Estado de Chile, a Chilean state-owned bank, powers to comply with functions related to the financial administration of the State, that are or might be established according to Chile's laws and regulations. These measures include—the management of the Chilean government financial resources which is made through deposits in the Cuenta Única Fiscal and its subsidiary accounts, all of which must be kept at Banco del Estado de Chile.</p>
Existing Measures:	<p>Decreto Ley N° 2.079, Official Gazette of January 18, 1978, Ley Orgánica del Banco del Estado de Chile Decreto Ley N° 1.263, Official Gazette of November 28, 1975, Decreto Ley Orgánico de Administración Financiera del Estado, Article 6.</p>

Section D / Future Measures

Sector:	Financial Services
Sub-Sector:	Insurance and insurance-related services
Obligations Concerned:	Cross-Border Supply of Financial Services (Article FS.6)
Level of Government:	Central
Description:	<p>All types of insurance² that Chilean law makes or may make compulsory, and all insurance related to social security, cannot be contracted outside Chile.</p> <p>This reservation does not apply in the event that Chilean law makes compulsory insurance for international maritime transport, international commercial aviation and space launching and freight (including satellites) and goods in international transit (includes goods transported). This exclusion does not apply to insurance for cabotage or related activities.</p>
Existing Measures:	Decreto con Fuerza de Ley N° 251, Official Gazette of May 22, 1931, Ley de Seguros, Title I, Article 4.

² For greater certainty this reservation does not apply to reinsurance services.

Section D / Future Measures

Sector:	Financial Services
Sub-Sector:	Social services
Obligations Concerned:	Market Access (Article FS.5) Cross-Border Supply of Financial Services (Article FS.6) Performance Requirements (Article FS.9)
Level of Government:	Central
Description:	Chile reserves the right to adopt or maintain any measure with respect to the provision of public law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for reasons of public interest: income security or insurance, social security or insurance, social welfare, public education, public training, health care and childcare.
Existing Measures:	

Section D / Future Measures

Sector: Financial Services

Subsector: All Subsectors

Obligations Concerned: National Treatment (Article FS.3)
Senior Management and Board of Directors (Article FS.7)

Description: In the transfer or disposal of any interest in stock or asset held in an existing state enterprise or governmental entity, Chile reserves the right to prohibit or impose limitations on the ownership of said interest or asset, and on the right of foreign investors or their investment to control any State company created thereby or investments made by the same. In connection with any such transfer or disposal, Chile may adopt or maintain any measure related to the nationality of senior management and member of the Board of Directors. A State company shall mean any company owned or controlled by Chile by means of an interest share in the ownership thereof, and it shall include any company created after the effective date of this Agreement for the sole purpose of selling or disposing of its interest share in the capital or assets of an existing state enterprise governmental entity.