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Subject to Legal Review for Accuracy, Clarity, and Consistency
February 25, 2004

ANNEX III: FINANCIAL SERVICES NON-CONFORMING MEASURES
Schedule for Nicaragua

Central America - United States Free Trade Agreement (CAFTA)

Nicaragua Non-Conforming Measures Regarding with Financial Services

Notes

1. Commitments in these subsectors under the Agreement, are undertaken subject to the limitations and conditions in these headnotes and in Sections A and B below.
2. In order to clarify the Nicaraguan commitment with respect to Article 4 of the Agreement (Market Access), juridical persons supplying financial services and organized under the laws of Nicaragua are subject to non-discriminatory limitations on juridical form.¹

¹ For example, partnerships and sole proprietorships 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 another Party between branches or subsidiaries.

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ANNEX III: FINANCIAL SERVICES NON-CONFORMING MEASURES
Schedule for Nicaragua, Section A

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ANNEX III: FINANCIAL SERVICES NON-CONFORMING MEASURES
Schedule for Nicaragua, Section A

Sector:	Financial Services - Banking
Obligations Concerned	Market Access (Article XX) National Treatment
Measures:	General Law on Banks, Non-Banking Financial Institutions and Financial Groups. Law No. 314 of 1999 (published in La Gaceta, No. 198, 199 y 200 of October 18, 19 and 20, 1999).
Description:	<u>Bank Branches:</u> The capitals which foreign banks assign to their branches in Nicaragua must be effectively paid and deposited in the country. Based on such capital, the branch will be able to grant loans. Branches of Foreign Banks are not allowed to grant loans based on the capital and reserves of their headquarters.

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ANNEX III: FINANCIAL SERVICES NON-CONFORMING MEASURES
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Sector:	Financial Services – Non-Banking Financial Institutions and Other Financial Services (excluded Insurance).
Obligations Concerned:	National Treatment Market Access (Article XX)
Measures:	Especial Law on Financial, Investment and Other Companies. Decree No 15-L. (published in La Gaceta No. 77 of April 10, 1970, and modified by Decree No. 1698, published in La Gaceta, No. 138 of June 22,1970). General Law on Banks, Non-Banking Financial Institutions and Financial Groups. Law No. 314 of 1999 (published in La Gaceta, No. 198, 199 y 200 of October18, 19 and 20, 1999).
Description:	The capitals which foreign Non-Banking Financial Institutions assign to their branches in Nicaragua must be effectively paid and deposited in the country. Branches of foreign Non-Banking Financial Institutions that accept deposits from the public are not allowed to grant loans based on the capital and reserves of their headquarters.

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ANNEX III: FINANCIAL SERVICES NON-CONFORMING MEASURES
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Sector:	Financial Services - Insurance
Obligations Concerned:	Market Access (Article XX) Senior Management and Board of Directors (Article XX) Cross-border Trade (Article XX)
Measures:	<p>General Law on Insurance Institutions. Decree No. 1727 of 1970 (published in La Gaceta No.270 of November 26, 1970 y its amendments by Law No. 227 of 1996 (published in La Gaceta No. 150 of August 12, 1996).</p> <p>General Law on Banks, Non-Banking Financial Institutions and Financial Groups. Law No. 314 of 1999 (published in La Gaceta, No. 198, 199 y 200 of October 18, 19 and 20, 1999).</p> <p>Regulatory Rules for the Authorization of Insurance Intermediaries and the Exercise of their Intermediation Functions. Resolution: SIB-OIF-IV-26-96 (published in La Gaceta No. 13 of January 20, 1997).</p>
Descripción:	<p>The Insurance and Reinsurance activity may only be practiced by juridical persons constituted and domiciled in Nicaragua in the form of public corporations (sociedades anónimas).</p> <p>These activities can also be practiced by an autonomous state entity authorized by its constitutive law.</p> <p>Natural or legal persons domiciled in Nicaragua are prohibited to contract for insurance with institutions not duly authorized to operate in the country.</p> <p>Agencies and/or branches of foreign insurance companies are prohibited to operate in Nicaragua.</p> <p>Members of the Board of Directors of an Insurance Company must be residents in Nicaragua.</p> <p>Insurance companies cannot retain net premiums issued for an amount three times superior than its patrimony.</p>

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Sector:	Financial Services – Pension Funds
Obligations Concerned:	Market Access (Article XX) Senior Management and Board of Directors (Article XX) Cross-border Trade (Article XX)
Measures:	Organic Law of the Pensions Superintendence. Law No. 388 (published in La Gaceta of May 8, 2001) Rules of the Organic Law of the Pensions Superintendence. Decree No. 64-2001. Law of the Saving System for Pensions. Law No-340 (La Gaceta, No. 72 of April 11, 2000) and its regulations. General Rule of the Law of the Saving System for Pensions. Decree No. 55-22.
Descripción:	The administration of pension funds may only be practiced by juridical persons constituted and domiciled in Nicaragua in the form of public corporations (sociedades anónimas).

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ANNEX III: FINANCIAL SERVICES NON-CONFORMING MEASURES
Schedule for Nicaragua, Section B

Sector: Financial Services

Obligations Concerned: Market Access (Article XX)

Description: Nicaragua reserves the right to adopt or maintain measures requiring incorporation of foreign financial institutions, excluding those seeking to operate as banks or insurance companies within the country.

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ANNEX III: FINANCIAL SERVICES NON-CONFORMING MEASURES
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Sector: Financial Services

Obligations Concerned: National Treatment (Article XX)

Description: Nicaragua reserves the right to accord benefits to financial institutions or public entities which supply financial services, wholly or majority owned by the State and which 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.

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 the legal requirements to begin operations.