

ARTICLE XI

Investment in Financial Services

- (1) Nothing in this Agreement shall be construed to prevent a Contracting Party from adopting or maintaining reasonable measures for prudential reasons, such as:
- (a) the protection of investors, depositors, financial market participants, policy-holders, policy-claimants, or persons to whom a fiduciary duty is owed by a financial institution;
 - (b) the maintenance of the safety, soundness, integrity or financial responsibility of financial institutions; and
 - (c) ensuring the integrity and stability of a Contracting Party's financial system.
- (2) Notwithstanding paragraphs (1), (2) and (4) of Article IX, and without limiting the applicability of paragraph (3) of Article IX, a Contracting Party may prevent or limit transfers by a financial institution to, or for the benefit of, an affiliate of or person related to such institution or provider, through the equitable, non-discriminatory and good faith application of measures relating to maintenance of the safety, soundness, integrity or financial responsibility of financial institutions.
- (3) (a) Where an investor submits a claim to arbitration under Article XIII, and the disputing Contracting Party invokes paragraphs (1) or (2) above, the tribunal established pursuant to Article XIII shall, at the request of that Contracting Party, seek a report in writing from the Contracting Parties on the issue of whether and to what extent the said paragraphs are a valid defence to the claim of the investor. The tribunal may not proceed pending receipt of a report under this Article.
- (b) Pursuant to a request received in accordance with subparagraph 3(a), the Contracting Parties shall proceed in accordance with Article XV, to prepare a written report, either on the basis of agreement following consultations, or by means of an arbitral panel. The consultations shall be between the financial services authorities of the Contracting Parties. The report shall be transmitted to the tribunal, and shall be binding on the tribunal.
- (c) Where, within 90 days of the referral by the tribunal, no request for the establishment of a panel pursuant to subparagraph 3(b) has been made and no report has been received by the tribunal, the tribunal may proceed to decide the matter.
- (4) Panels for disputes on prudential issues and other financial matters shall have the necessary expertise relevant to the specific financial service in dispute.
- (5) Sub-paragraph 3(b) of Article II does not apply in respect of financial services.