

**SUMMARY OF SECTOR-SPECIFIC ELEMENTS UNDER CONSIDERATION FOR  
INCLUSION IN THE UPDATED U.S. GATS SUBMISSION**

The following pages describe sector-specific provisions to be included in the updated U.S. GATS submission in order to reflect the current market situation.

Under each sector heading, we provide a description of how current market access provided to domestic and foreign service suppliers will be reflected in the U.S. submission, as well as a list of relevant national and state-level organizations consulted to date. As indicated in the cover note, **the U.S. updated submission will not require any state to take any further action regarding its existing laws or regulations in services sectors.**

Since nothing in the GATS impedes the ability of a state to maintain or develop regulatory requirements as appropriate to each jurisdiction, the updated U.S. submission will not impede or impair the ability of any state to regulate in any covered sectors. The GATS fully respects the sovereign right of all WTO Members to regulate and to introduce new regulations. In addition, nothing in the GATS may prevent the adoption or enforcement of measures necessary to secure compliance with laws or regulations, such as to prevent deceptive or fraudulent practices.

## **AUDIOVISUAL SERVICES**

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## **RADIO AND TELEVISION DISTRIBUTION SERVICES (excluding transmission services for radio and television programs)**

**States: All**

The U.S. submission will reflect the current market situation by clarifying that domestic and foreign service suppliers may provide the service of selling the rights for radio and television program exhibition, broadcast or by other forms of transmission. For the purposes of clarity, this subsector applies only to the distribution, e.g. licensing of radio and television programs for exhibition, broadcast, or other transmission. Transmission services for television programs, i.e. program transmission services, are specifically excluded.

## **EXPRESS DELIVERY SERVICES**

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**States:           All**

The U.S. submission will reflect the current market situation by including a category for the supply of express delivery services. The U.S. definition of express delivery services will not include services reserved exclusively to the U.S. Postal Service, nor will it include maritime or air transportation services.

*Consulted with: the US Postal Service, the U.S. Postal Rate Commission*

## FINANCIAL SERVICES

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### INSURANCE

**States: Arkansas, California, Florida, Hawaii, Maine, Massachusetts, Mississippi, Missouri, Nebraska, New Mexico, South Dakota, and Wyoming**

#### **Arkansas**

The U.S. submission will reflect the current market situation by indicating that Arkansas no longer

- requires for direct insurance companies, majority U.S. citizenship for incorporators of mutual or stock insurance direct insurance companies. Direct insurance includes life, accident, and health insurance services (except workers compensation insurance), and non-life insurance;
- requires residency for the organizing Members of mutual insurance companies; and
- limits non-resident licenses for agents, brokers, adjusters, and consultants providing services auxiliary to insurance to individuals licensed in another state (via cross-border supply from another country or through a commercial presence of a foreign service supplier established in the United States).

#### **California**

The U.S. submission will reflect the current market situation under consultancy, actuarial, risk assessment, and claim settlement services by removing adjuster from the list of licenses that are not issued to nonresidents in California.

#### **Hawaii**

The U.S. submission will reflect the current market situation by removing Hawaii from the list of states that

- have no mechanism for licensing initial entry of a non-US “direct” insurance company as a branch, unless the company already is licensed in another U.S. state. Direct insurance includes life, accident, and health insurance services (except workers compensation insurance), and non-life insurance; and
- prohibit licenses from being issued to non-residents for adjusters and solicitors for consultancy, actuarial, risk assessment, and claim settlement services (via cross-border

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supply from another country or through a commercial presence of a foreign service supplier established in the United States).

### **Nebraska**

The U.S. submission will reflect the current market situation under consultancy, actuarial, risk assessment, and claim settlement services by removing the citizenship requirement for brokers providing these services in Nebraska.

### **Wyoming**

The U.S. submission will reflect the current market situation by indicating that Wyoming no longer maintains a restriction on the ability of non-residents to obtain brokerage licenses (via cross-border supply from another country or through a commercial presence of a foreign service supplier established in the United States).

### **California, Maine, Mississippi, Missouri, New Mexico, and South Dakota**

The U.S. submission will reflect the current market situation for brokerage services by adding California, Maine, Mississippi, Missouri, New Mexico, and South Dakota to the list of states that do not require in-state residency for surplus line brokers (via cross-border supply from another country or through a commercial presence of a foreign service supplier established in the United States).

### **Arkansas, Florida, Massachusetts, and New Mexico**

The U.S. submission will reflect the current market situation for agency services by removing Arkansas, Massachusetts, and New Mexico from the list of states that may charge non-residents with higher licensing fees for the delivery of services (via cross-border supply from another country or through a commercial presence of a foreign service supplier established in the United States).

### **Massachusetts, New Mexico, and North Carolina**

The U.S. submission will reflect the current market situation for brokerage services by removing Arkansas, Massachusetts, and New Mexico from the list of states that may charge non-residents with higher licensing fees for the delivery of services (via cross-border supply from another country or through a commercial presence of a foreign service supplier established in the United States).

### **Arkansas, Florida, New Mexico and South Dakota**

The U.S. submission will reflect the current market situation under agency services by adding Arkansas, Florida, New Mexico, and South Dakota to the list of states that do not require in-state residency for surplus line agents that provide services (via cross-border supply from another country or through a commercial presence of a foreign service supplier established in the United States).

*Consulted with: National Association of Insurance Commissioners (NAIC) on preparation of the revised offer. The NAIC- Washington International Counsel circulated the initial offer to the Offices of the Insurance Commissioners of all 50 U.S. states plus DC and requested the*

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*Commissioners to identify any improvements to existing access that is, any additional restrictions that had been removed.*

The above represents the improvements to the offer compiled by the NAIC. Some of the states (Alabama, Arizona, Connecticut, Delaware, District of Columbia, Georgia, Iowa, Louisiana, Michigan, New Hampshire, New Jersey, New York, Oklahoma, Ohio, Oregon, Pennsylvania, South Carolina, and Texas) were not able to forward a response within the NAIC suggested time frames.

### **BANKING**

**States:        New York**

The U.S. submission will reflect the current market situation by reducing the scope and level of the requirement regarding citizenship of directors of depository financial institutions. The U.S. submission will indicate that, for credit unions, citizenship is no longer required. For mutual savings banks or savings and loan associations, citizenship is required for all members of the board of trustees. For other depository financial institutions, citizenship is required for half of the board of directors.

*Consulted with the Conference of State Bank Supervisors, the State of New York Banking Department, the Federal Reserve, the Securities and Exchange Commission, the Office of the Comptroller of the Currency, and the Commodities Futures Trading Commission.*

## HIGHER EDUCATION SERVICES

As indicated in the cover note, **the U.S. updated submission will not require any state to take any further action regarding its existing laws or regulations in services sectors.**

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**States: All**

The U.S. submission will reflect the current market situation in higher education services. **The U.S. submission will not include any provisions or reference to public or private primary or secondary education services.** The U.S. submission on higher education services will include the following limitations:

- Nothing in this agreement will interfere with the ability of individual U.S. institutions to maintain autonomy in admissions policies, in setting tuition rates, and in the development of curricula or course content. Educational and training entities must comply with requirements of the jurisdiction in which the facility is established.
- The granting of U.S. federal or state government funding or subsidies may be limited to U.S. schools. Scholarships and grants may be limited to U.S. citizens and/or U.S. residents of particular states. Tuition rates may vary for in-state and out-of-state residents.
- Additionally, the submission would make clear that: Admission policies include considerations of equal opportunity for students (regardless of race ethnicity or gender), as well as recognition of credits and degrees; state regulations apply to the establishment and operation of a facility in the state; accreditation of the institution and its programs may be required by regional and/or specialty organizations; required standards must be met to obtain and maintain accreditation; foreign-owned entities may be ineligible for federal or state funding or subsidies, including land grants, preferential tax treatment, and any other public benefits; and to participate in the U.S. student loan program, foreign institutions established in the United States would need to meet the same requirements as U.S. institutions.

*Consulted with: the American Council on Education, the Council for Higher Education Accreditation, the National Committee for International Trade in Education, and the U.S. Department of Education.*

## **PROFESSIONAL SERVICES**

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## **ACCOUNTING, AUDITING AND BOOKKEEPING SERVICES**

**States: All**

The U.S. submission will reflect the current market situation in accounting and bookkeeping services by clarifying that requirements concerning an in-state office or residency apply only to the supply of auditing services.

**State: Iowa**

The U.S. submission will reflect the current market situation by removing the statement that accounting firms must incorporate in order to supply services through a commercial presence in Iowa.

*Consulted with: the American Institute of Certified Public Accountants*

## **ENGINEERING AND INTEGRATED ENGINEERING SERVICES**

**Jurisdiction: District of Columbia**

The U.S. submission will reflect the current market situation by deleting a reference to a citizenship requirement for licensure in the District of Columbia, which does not exist.

*Consulted with: District of Columbia Board of Professional Engineers*

## **LEGAL SERVICES**

**States: Arizona, Indiana, Louisiana, Massachusetts, Missouri, New Mexico, North Carolina and Utah**

The U.S. submission will reflect the current market situation regarding foreign legal consultancy (FLC) services by including state FLC rules adopted since 1994. This will address the ability of

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foreign-licensed lawyers to provide advice on foreign and international law; to associate with, employ, or be employed by members of the bar; and to use the name of the law firm with which they are affiliated (see ANNEX A for more detail on the substance of these provisions for each state).

*Consulted with: American Bar Association (ABA) and members of the ABA Committee on Transnational Legal Practice; Conference of Chief Justices*

**ANNEX A**

**MEASURES ON FOREIGN LEGAL CONSULTANCY SERVICES**

The measures that have been implemented by the states listed below permit foreign lawyers to practice as a foreign legal consultant in the jurisdictions listed below, subject to any relevant regulatory and disciplinary requirements as determined by the competent authorities. Foreign legal consultancy is defined as follows:

Consultancy on law of jurisdiction where service supplier is qualified as a lawyer. Such consultancy excludes the following: i) appearing for a person other than himself or herself as attorney in any court, or before any magistrate or other judicial officer, in this state (other than upon admission pro haec vice); ii) preparing any instrument effecting the transfer or registration of title to real estate located in the United States of America; iii) preparing any will or trust instrument effecting the disposition on death of any property located in the United States of America and owned by a resident thereof, or any instrument relating to the administration of a decedent's estate in the United States of America; and iv) preparing any instrument in respect of the marital or parental relations, rights or duties of a resident of the United States of America, or the custody or care of the children of such a resident.)

Additional features by state:

**Arizona:**

- a) Practice of international law: no specific provision.
- b) Practice of 3rd country law: no specific provision.
- c) Practice of host-country law: not permitted.
- d) Association with local lawyers: partnerships with local lawyers: permitted.
- e) Employment of local lawyers: permitted.
- f) Use of firm name: permitted.

**Indiana:**

- a) Practice of international law: prohibited.
- b) Practice of 3rd country law: prohibited.
- c) Practice of host-country law: prohibited.
- d) Association with local lawyers: partnerships with local lawyers: permitted.
- e) Employment of local lawyers: permitted.
- f) Use of firm name: permitted.

**Louisiana:**

- a) Practice of international law: permitted, provided foreign legal consultant (FLC) is competent.
- b) Practice of 3rd country law: permitted.
- c) Practice of host-country law: not permitted.
- d) Association with local lawyers: partnerships with local lawyers: permitted.
- e) Employment of local lawyers: permitted.
- f) Use of firm name: permitted.

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**Missouri:**

- a) Practice of international law: permitted.
- b) Practice of 3rd country law: permitted.
- c) Practice of host-country law: not permitted.
- d) Association with local lawyers: partnerships with local lawyers: no specific provision.
- e) Employment of local lawyers: no specific provision.
- f) Use of firm name: permitted.

**North Carolina:**

- a) Practice of international law: permitted, provided authorization from the Supreme Court.
- b) Practice of 3rd country law: permitted, provided authorization from the Supreme Court.
- c) Practice of host-country law: not permitted.
- d) Association with local lawyers: partnerships with local lawyers: permitted.
- e) Employment of local lawyers: permitted.
- f) Use of firm name: permitted.

**New Mexico:**

- a) Practice of international law: no specific provision.
- b) Practice of 3rd country law: no specific provision.
- c) Practice of host-country law: permitted, provided such law is also applicable to the foreign country where the legal consultant is admitted to practice or on the basis of advice from a person duly qualified or entitled.
- d) Association with local lawyers: partnerships with local lawyers: no specific provision.
- e) Employment of local lawyers: no specific provision.
- f) Use of firm name: permitted

**Utah:**

- a) Practice of international law: no specific provision.
- b) Practice of 3rd country law: no specific provision.
- c) Practice of host-country law: no specific provision.
- d) Association with local lawyers: partnerships with local lawyers: permitted.
- e) Employment of local lawyers: permitted.
- f) Use of firm name: no specific provision.

## TRANSLATION SERVICES

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**States:           All States**

The U.S. submission will reflect the current market situation by including the supply of translation services.

*Consulted with: the American Translators Association.*

## **TRANSPORTATION SERVICES**

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### **PIPELINE TRANSPORTATION OF FUELS**

**States: All**

The U.S. submission will reflect existing market access for pipeline transportation of fuels. The U.S. submission will include limitations concerning pipeline transport services on Federal lands.

*Consulted with: U.S. Department of Interior, U.S. Department of Transportation, and the Federal Energy Regulatory Commission.*

### **SERVICES AUXILIARY TO ALL MODES OF TRANSPORT**

**States: All**

The U.S. submission will reflect existing market access for cargo handling services, storage and warehousing services, and freight transport agency services. The U.S. submission will clearly exclude any services supplied in connection with air and maritime transportation services.

*Consulted with: U.S. Department of Transportation (including the U.S. Maritime Administration and U.S. Coast Guard), and the Federal Energy Regulatory Commission.*