

## ANNEX I

### SCHEDULE OF AUSTRALIA

#### INTRODUCTORY NOTES

1. For greater certainty, further to paragraph 2(f) of the Explanatory Notes to Annex I, the **Description** element of each of Australia's entries in Annex I is to be interpreted in accordance with the relevant cited sources of the non-conforming measures.
2. Australia reserves the right to maintain and to add to this Schedule any non-conforming measure at the regional level of government that existed at January 1, 2005, but was not listed in this Schedule at the date of entry into force of this Agreement against the following obligations:
  - (a) Article 7.4 (National Treatment) of Chapter 7 (Cross-Border Trade in Services) or Article 12.4 (National Treatment) of Chapter 12 (Establishment and Related Provisions);
  - (b) Article 7.5 (Local Presence) of Chapter 7 (Cross-Border Trade in Services);
  - (c) Article 7.6 (Most-Favoured-Nation Treatment) of Chapter 7 (Cross-Border Trade in Services) or Article 12.5 (Most-Favoured-Nation Treatment) of Chapter 12 (Establishment and Related Provisions);
  - (d) Article 12.6 (Performance Requirements) of Chapter 12 (Establishment and Related Provisions); or
  - (e) Article 12.7 (Senior Management and Boards of Directors) of Chapter 12 (Establishment and Related Provisions).
3. Any existing non-conforming measure that is maintained and added to this Schedule pursuant to paragraph 2 shall include any amendment to that non-conforming measure since January 1, 2005, to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment.

## AU-1

<b>Sector</b>	All Sectors
<b>Obligations Concerned</b>	National Treatment (Article 12.4) Senior Management and Boards of Directors (Article 12.7)
<b>Level of Government</b>	Central
<b>Measures</b>	Australia's Foreign Investment Framework, which comprises Australia's Foreign Investment Policy, the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth); <i>Foreign Acquisitions and Takeovers Regulation 2015</i> (Cth); <i>Foreign Acquisitions and Takeovers Fees Imposition Act 2015</i> (Cth); <i>Foreign Acquisitions and Takeovers Fees Imposition Regulation 2015</i> (Cth); <i>Financial Sector (Shareholdings) Act 1998</i> (Cth); and Ministerial Statements.
<b>Description</b>	<u>Establishment and Related Provisions</u> <sup>1</sup>  A. The following investments <sup>2</sup> are subject to approval by the Australian Government and may also require notification <sup>3</sup> to the Australian Government:  (a) a proposed investment by a foreign person <sup>4</sup> in an entity or Australian business valued above 1,134 million Australian dollars <sup>5</sup> ;  (b) a proposed investment by a foreign person in an entity or Australian business valued above 261 million Australian dollars <sup>6</sup> relating to a sensitive business <sup>7</sup> or its assets;

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<sup>1</sup> The terms in this entry should be interpreted in accordance with Australia's Foreign Investment Framework as at the date of entry into force of this Agreement.

<sup>2</sup> "Investment" means activities covered by Part II of the *Foreign Acquisitions and Takeovers Act 1975* (Cth) or, where applicable, Ministerial Statements on foreign investment policy. Funding arrangements that include debt instruments having quasi-equity characteristics will be treated as direct foreign investment.

<sup>3</sup> The *Foreign Acquisitions and Takeovers Fees Imposition Act 2015* (Cth) and the *Foreign Acquisitions and Takeovers Fees Imposition Regulation 2015* (Cth) set the fees for foreign investment applications and notices. Fees are indexed annually on July 1.

<sup>4</sup> For the purposes of this entry, the term "foreign person" has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and the *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

<sup>5</sup> This is the figure as at January 1, 2018. To be indexed annually on January 1.

<sup>6</sup> This is the figure as at January 1, 2018. To be indexed annually on January 1.

<sup>7</sup> The term "sensitive business" has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and the *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

- (c) a proposed direct investment by a foreign government investor<sup>8</sup> of any interest regardless of value;
- (d) a proposed investment by a foreign person of five per cent or more in the media sector, regardless of the value of the investment;
- (e) a proposed acquisition by a foreign person of an interest in developed commercial land<sup>9</sup> where the value of the interest is more than 1,134 million Australian dollars<sup>10</sup>, unless the land meets the conditions for the lower developed commercial land threshold of 57 million Australian dollars<sup>11 12</sup>.

Investments may be refused, subject to orders or approved subject to conditions. Foreign persons that do not comply with the foreign investment framework may be subject to civil and criminal penalties.

For greater certainty, where an investment could qualify for the application of one or more of the above screening thresholds, approval or notification requirements apply from the lowest applicable threshold.

Separate or additional requirements may apply to measures subject to other Annex I entries and to sectors, subsectors or activities subject to Annex II.

B. The acquisition of a stake in an existing financial sector company by a foreign investor, or entry into an arrangement by a foreign investor, that would lead to an unacceptable shareholding situation or to practical control<sup>13</sup>

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<sup>8</sup> The term “foreign government investor” has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and the *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

<sup>9</sup> The term “developed commercial land” means commercial land that is not vacant within the meaning of the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and the *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

<sup>10</sup> This is the figure as at January 1, 2018. To be indexed annually on January 1.

<sup>11</sup> This is the figure as at January 1, 2018. To be indexed annually on January 1.

<sup>12</sup> The conditions for the lower threshold are those set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and the *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

<sup>13</sup> “Unacceptable shareholding situation” and “practical control” as defined in the *Financial Sector (Shareholdings) Act 1998* (Cth).

of an existing financial sector company, may be refused or be subject to certain conditions<sup>14</sup>.

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<sup>14</sup> Ministerial Statements on Foreign Investment Policy including the Treasurer's Press Release No. 28 of April 9, 1997.

**AU-2**

<b>Sector</b>	All Sectors
<b>Obligations Concerned</b>	Senior Management and Boards of Directors (Article 12.7)
<b>Level of Government</b>	Central
<b>Measures</b>	<i>Corporations Act 2001 (Cth)</i> <i>Corporations Regulations 2001 (Cth)</i>
<b>Description</b>	<u>Establishment and Related Provisions</u>  At least one director of a private company must be ordinarily resident in Australia.  At least two directors of a public company must be ordinarily resident in Australia.

### AU-3

<b>Sector</b>	All Sectors
<b>Obligations Concerned</b>	National Treatment (Articles 7.4 and 12.4) Local Presence (Article 7.5) Senior Management and Boards of Directors (Article 12.7)
<b>Level of Government</b>	Regional
<b>Measures</b>	<i>Associations Act 2017</i> (NT) <i>Associations Incorporation Act 1991</i> (ACT) <i>Associations Incorporation Act 1981</i> (Qld) <i>Associations Incorporation Act 1985</i> (SA) <i>Associations Incorporation Act 1964</i> (Tas) <i>Associations Incorporation Reform Act 2012</i> (Vic)
<b>Description</b>	<u>Cross-Border Trade in Services, and Establishment and Related Provisions</u>  <u>Northern Territory</u>  An application for the incorporation of an association <sup>15</sup> must be made by a person who is a resident of the Northern Territory.  The public officer of an incorporated association must be a person who is a resident of the Northern Territory.  <u>Australian Capital Territory</u>  An application for incorporation of an association must be made by a person who is a resident of the Australian Capital Territory.  The public officer of an incorporated association must be a person who is a resident of the Australian Capital Territory.  <u>Queensland</u>  The office of secretary shall become vacant if the person holding that office ceases to be a resident in Queensland, or in another State but not more than 65 kilometres from the Queensland border.

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<sup>15</sup> “Association” includes a trading association.

The management committee of an incorporated association must ensure that the secretary is an individual residing in Queensland, or in another State but not more than 65 kilometres from the Queensland border.

The members of the management committee of an incorporated association must ensure that the association has an address nominated for the service of documents on the association. The nominated address must be a place in the State where a document can be served personally on a person. A post office box is not a place that can be shown as a nominated address.

#### South Australia

The public officer of an incorporated association must be a person who is a resident of South Australia.

#### Tasmania

A person is not eligible to be appointed as a public officer of an incorporated association unless the person is resident in Tasmania.

#### Victoria

A person applying for the incorporation of an association must be an Australian resident.

The first secretary and secretary of an incorporated association must be Australian residents.

## AU-4

<b>Sector</b>	All Sectors
<b>Obligations Concerned</b>	Local Presence (Article 7.5) Senior Management and Boards of Directors (Article 12.7)
<b>Level of Government</b>	Regional
<b>Measures</b>	<i>Co-operatives National Law (ACT) Act 2017 (ACT)</i> <i>Co-operatives (Adoption of National Law) Act 2012 (NSW)</i> <i>Co-operatives (National Uniform Legislation) Act 2015 (NT)</i> <i>Cooperatives Act 1997 (Qld)</i> <i>Co-operatives National Law (South Australia) Act 2013 (SA)</i> <i>Co-operatives National Law (Tasmania) Act 2015 (Tas)</i> <i>Co-operatives National Law Application Act 2013 (Vic)</i> <i>Co-operatives Act 2009 (WA)</i>
<b>Description</b>	<p><u>Cross-Border Trade in Services, and Establishment and Related Provisions</u></p> <p><u>All Australian States and Territories</u></p> <p>The secretary of a co-operative must be a person ordinarily resident in Australia.</p> <p>At least two of the directors of a co-operative must be ordinarily resident in Australia.</p> <p><u>For Co-operatives National Law (CNL) jurisdictions (currently New South Wales, Victoria, South Australia, the Northern Territory, Tasmania, Western Australia and the Australian Capital Territory):</u></p> <p>A co-operative registered under the CNL must have a registered office in the jurisdiction in which it was first incorporated as a co-operative. It does not need to have a registered office in any other jurisdiction that has applied the CNL.</p> <p><u>For non-CNL jurisdictions:</u></p> <p>A co-operative must have a registered office in each State or Territory in which it operates.</p>

A foreign co-operative must appoint a person who will act as agent of the cooperative in each State or Territory in which it operates.

A foreign co-operative must appoint a person resident in each State or Territory in which it operates as a person on whom all notices and legal process may be served on behalf of the co-operative.

## AU-5

<b>Sector</b>	All Sectors
<b>Obligations Concerned</b>	Local Presence (Article 7.5)
<b>Level of Government</b>	Regional
<b>Measures</b>	<i>Partnership Act 1963 (ACT)</i> <i>Partnership Act 1892 (NSW)</i> <i>Partnership Act 1997 (NT)</i> <i>Partnership Act 1891 (Qld)</i> <i>Partnership Act 1891 (SA)</i> <i>Partnership Act 1891 (Tas)</i> <i>Partnership Act 1958 (Vic)</i>
<b>Description</b>	<u>Cross-Border Trade in Services</u>  <u>Australian Capital Territory, New South Wales, Northern Territory, Queensland, South Australia, Tasmania and Victoria</u>  A limited partnership or an incorporated limited partnership established in a State or Territory must have an office, principal office or registered office in that State or Territory.

## AU-6

<b>Sector</b>	All Sectors
<b>Obligations Concerned</b>	Local Presence (Article 7.5)
<b>Level of Government</b>	Regional
<b>Measures</b>	<i>Consumer Affairs and Fair Trading Act 2017 (NT)</i> <i>Consumer Affairs and Fair Trading (Trading Stamps) Regulations 2002 (NT)</i>
<b>Description</b>	<u>Cross-Border Trade in Services</u>  <u>Northern Territory</u>  A promoter of a third party trading scheme <sup>16</sup> must maintain an office in Australia.

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<sup>16</sup> “Third party trading scheme” means a scheme or arrangement under which the acquisition of goods or services by a consumer from a supplier is a condition, which gives rise, or apparently gives rise, to an entitlement to a benefit from a third party in the form of goods or services or some discount, concession or advantage in connection with the acquisition of goods or services.

**AU-7**

<b>Sector</b>	Professional Services
<b>Obligations Concerned</b>	National Treatment (Article 7.4) Most-Favoured-Nation Treatment (Article 7.6)
<b>Level of Government</b>	Central
<b>Measures</b>	<i>Patents Act 1990 (Cth)</i> <i>Patents Regulations 1991 (Cth)</i>
<b>Description</b>	<u>Cross-Border Trade in Services</u>

In order to register to practise in Australia, patent attorneys must have been employed for at least two continuous years, or a total of two years within five continuous years, in Australia or New Zealand, or in both countries, in a position or positions that provided the applicant with required experience in Australia's and New Zealand's patent attorney regime.

## AU-8

<b>Sector</b>	Professional Services
<b>Obligations Concerned</b>	Local Presence (Article 7.5)
<b>Level of Government</b>	Central and Regional
<b>Measures</b>	<i>Corporations Act 2001 (Cth)</i> <i>Co-operative Housing and Starr-Bowkett Societies Act 1998 (NSW)</i> <i>Estate Agents Act 1980 (Vic)</i>
<b>Description</b>	<u>Cross-Border Trade in Services</u>  <u>Commonwealth</u>  A person who is not ordinarily resident in Australia may be refused registration as a company auditor or liquidator. At least one partner in a firm providing auditing services must be a registered company auditor who is ordinarily resident in Australia.  <u>New South Wales</u>  A person must be ordinarily resident in New South Wales in order to be an auditor of specified kinds of societies and associations.  <u>Victoria</u>  A firm of auditors cannot audit an estate agent's accounts unless at least one member of the firm of auditors is an Australian resident.

**AU-9**

<b>Sector</b>	Professional Services
<b>Obligations Concerned</b>	National Treatment (Article 7.4) Most-Favoured-Nation Treatment (Article 7.6)
<b>Level of Government</b>	Central
<b>Measures</b>	<i>Migration Act 1958</i> (Cth)
<b>Description</b>	<u>Cross-Border Trade in Services</u>  To practise as a migration agent in Australia, a person must be an Australian citizen or permanent resident, or a citizen of New Zealand with a special category visa.

**AU-10**

<b>Sector</b>	Professional Services
<b>Obligations Concerned</b>	Local Presence (Article 7.5)
<b>Level of Government</b>	Central
<b>Measures</b>	<i>Customs Act 1901 (Cth)</i>
<b>Description</b>	<u>Cross-Border Trade in Services</u>  To act as a customs broker in Australia, service suppliers must supply the service in and from Australia.

## AU-11

<b>Sector</b>	Professional Services
<b>Obligations Concerned</b>	Local Presence (Article 7.5) Senior Management and Boards of Directors (Article 12.7)
<b>Level of Government</b>	Regional
<b>Measures</b>	<i>Trustee Companies Act 1947 (ACT)</i> <i>Trustee Companies Act 1964 (NSW)</i> <i>Companies (Trustees and Personal Representatives) Act 1981 (NT)</i> <i>Trustee Companies Act 1968 (Qld)</i> <i>Trustee Companies Act 1988 (SA)</i> <i>Trustee Companies Act 1953 (Tas)</i> <i>Trustee Companies Act 1984 (Vic)</i> <i>Trustee Companies Act 1987 (WA)</i>
<b>Description</b>	<p><u>Cross-Border Trade in Services, and Establishment and Related Provisions</u></p> <p><u>Northern Territory</u></p> <p>A body corporate may not obtain a grant of probate or act as an executor of a will, or trustee of an estate of a deceased person unless it is a “licensed trustee company” as defined in Section 601RAA of the <i>Corporations Act 2001</i> (Cth), or a body corporate authorised by a law of the Northern Territory to obtain a grant of probate and so act.</p> <p><u>Western Australia</u></p> <p>A company can only act as a trustee company in Western Australia if it is a “licensed trustee company” as defined in Section 601RAA of the <i>Corporations Act 2001</i> (Cth).</p> <p><u>All other Australian States and Territories</u></p> <p>A body corporate may not obtain a grant of probate or act as an executor of a will and any codicil unless it is a “licensed trustee company” within the meaning of Chapter 5D of the <i>Corporations Act 2001</i> (Cth).</p>

**AU-12**

<b>Sector</b>	Professional Services
<b>Obligations Concerned</b>	Local Presence (Article 7.5)
<b>Level of Government</b>	Regional
<b>Measures</b>	<i>Architects Act 2013</i> (NT)
<b>Description</b>	<u>Cross-Border Trade in Services</u>

Northern Territory

To qualify for registration as an architectural partnership or company, the partnership or company must have a place of business or be carrying on business within the Northern Territory.

**AU-13**

<b>Sector</b>	Research and Development Services
<b>Obligations Concerned</b>	National Treatment (Articles 7.4 and 12.4)
<b>Level of Government</b>	Regional
<b>Measures</b>	<i>Biodiversity Act 2004 (Qld)</i>
<b>Description</b>	<u>Cross-Border Trade in Services, and Establishment and Related Provisions</u>  <u>Queensland</u>  Benefit sharing agreements require sublicences for use of samples or derivatives to conduct biodiscovery research and commercialisation to be offered first to Queensland-based entities, then to Australian-based entities, and then to overseas-based entities. Any entity with a benefit sharing agreement must obtain consent before granting a sublicense to an overseas-based entity.

## AU-14

<b>Sector</b>	Real Estate and Distribution Services
<b>Obligations Concerned</b>	National Treatment (Articles 7.4 and 12.4) Local Presence (Article 7.5)
<b>Level of Government</b>	Regional
<b>Measures</b>	<i>Community Land Management Act 1989</i> (NSW) <i>Strata Schemes Management Act 1996</i> (NSW) <i>Property, Stock and Business Agents Act 2002</i> (NSW) <i>Agents Licensing Act 2017</i> (NT) <i>Agents Act 2003</i> (ACT) <i>Property Agents and Motor Dealers Act 2000</i> (Qld) <i>Estate Agents Act 1980</i> (Vic) <i>Conveyancers Act 2006</i> (Vic) <i>Real Estate and Business Agents Act 1978</i> (WA) <i>Real Estate and Business Agents (General) Regulations 1979</i> (WA) <i>Settlement Agents Act 1981</i> (WA) <i>Settlement Agents Regulations 1982</i> (WA)
<b>Description</b>	<u>Cross-Border Trade in Services, and Establishment and Related Provisions</u>  <u>New South Wales</u>  A person cannot be appointed as an agent (for a proprietor of a development lot, neighbourhood lot or strata lot) if they are not an Australian resident. A person cannot be appointed as an agent (for an owner of a lot, for dealings with the owner’s corporation) if they are not an Australian resident. To be licensed as a property, stock, business, strata managing or community managing agent in New South Wales, licensees must have a registered office in New South Wales.  <u>Northern Territory</u>  A licensed agent <sup>17</sup> must maintain an office in Australia at or from which the conduct of business under the licence is to occur.

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<sup>17</sup> A “licensed agent” includes a real estate agent, business agent or conveyancing agent.

### Australian Capital Territory

An estate agent must have their principal place of business in the Australian Capital Territory.

### Queensland

In order to obtain a licence to operate in Queensland as a real estate agent, auctioneer, motor dealer or commercial agent, a person must have a business address in Queensland.

### Victoria

A person cannot be licensed as an estate agent unless they have a registered office in Victoria and they must maintain a principal office in Victoria. An agent's representative must have a registered address in Victoria to which documents can be sent.

A person cannot be licensed as a conveyancer or carry on a conveyancing business in Victoria unless they maintain a principal place of business in Victoria.

### Western Australia

A person seeking to carry on business as a real estate or business agent in Western Australia must establish and maintain a registered office in the State.

A person seeking to carry on business as a settlement agent (conveyancer) in Western Australia must ordinarily reside in the State.

A licensed settlement agent must establish and maintain a registered office in the State.

## AU-15

<b>Sector</b>	Fishing and Pearling
<b>Obligations Concerned</b>	National Treatment (Articles 7.4 and 12.4) Local Presence (Article 7.5) Senior Management and Boards of Directors (Article 12.7)
<b>Level of Government</b>	Central and Regional
<b>Measures</b>	<i>Fisheries Management Act 1991</i> (Cth) <i>Foreign Fishing Licences Levy Act 1991</i> (Cth) <i>Fisheries Management Act 1994</i> (NSW) <i>Fisheries Act 1995</i> (Vic) <i>Fish Resources Management Act 1994</i> (WA) <i>Pearling Act 1990</i> (WA) Ministerial Policy Guideline No. 17 of August 2001 (WA)
<b>Description</b>	<u>Cross-Border Trade in Services, and Establishment and Related Provisions</u>  <u>Commonwealth</u>  Foreign fishing vessels <sup>18</sup> seeking to undertake fishing activity, including any activity in support of or in preparation for any fishing activity or the processing, carrying or transhipment of fish, in the Australian Fishing Zone must be authorised.  Where foreign fishing vessels are authorised, they may be subject to a levy <sup>19</sup> .  <u>New South Wales</u>  A foreign person or a foreign-owned body is not permitted to hold shares in a share management fishery.  <u>Victoria</u>  In Victoria, a fishery access licence or aquaculture licence can only be issued to:

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<sup>18</sup> For the purposes of this entry, a “foreign fishing vessel” is one that does not meet the definition of an Australian boat under the *Fisheries Management Act 1991* (Cth).

<sup>19</sup> The levy charged will be in accordance with the *Foreign Fishing Licences Levy Act 1991* (Cth) or any amendments thereto.

- (a) an individual who is an Australian resident;
- (b) a single corporation that has a registered office in Australia; or
- (c) a co-operative that has a registered office in a jurisdiction that administers the Co-operatives National Law (currently New South Wales, Victoria, South Australia, the Northern Territory, Tasmania, Western Australia and the Australian Capital Territory).

#### Western Australia

Only an individual who is an Australian citizen or permanent resident may be a licensee within the Western Australian pearling industry.

In the case of corporations, partnerships or trusts holding licences, these must be Australian owned or controlled (at least 51 per cent of the issued share capital, partnership interest or trust property must be owned by Australian citizens or permanent residents; the chairman, majority of the board of directors and all the company officers must be Australian citizens or permanent residents and must be nominated by, and represent, Australian interests).

## **AU-16**

<b>Sector</b>	Mining and Related Services
<b>Obligations Concerned</b>	National Treatment (Articles 7.4 and 12.4) Performance Requirements (Article 12.6)
<b>Level of Government</b>	Regional
<b>Measures</b>	<i>Mount Isa Mines Limited Agreement Act 1985 (Qld)</i>
<b>Description</b>	<u>Cross-Border Trade in Services, and Establishment and Related Provisions</u>  <u>Queensland</u>  The operator of Mount Isa Mines shall, so far as is reasonably and economically practicable: <ul style="list-style-type: none"><li>(a) use the services of professional consultants resident and available within Queensland;</li><li>(b) use labour available within Queensland;</li><li>(c) when preparing specifications, calling for tenders and letting contracts for works, materials, plant, equipment and supplies, ensure that Queensland suppliers, manufacturers and contractors are given reasonable opportunity to tender or quote; and</li><li>(d) give proper consideration and where possible preference to Queensland suppliers, manufacturers and contractors when letting contracts or placing orders for works, materials, plant, equipment and supplies where price, quality, delivery and service are equal to or better than that obtainable elsewhere.</li></ul>

**AU-17**

<b>Sector</b>	Other Business Services
<b>Obligations Concerned</b>	Local Presence (Article 7.5)
<b>Level of Government</b>	Regional
<b>Measures</b>	<i>Prostitution Regulation Act 2017 (NT)</i>
<b>Description</b>	<u>Cross-Border Trade in Services</u>  <u>Northern Territory</u>  To be eligible for the grant of an operator’s licence or a manager’s licence in respect of an escort agency business, an individual must be resident in the Northern Territory.  For a body corporate to be granted an operator’s licence, its officers must also meet the residency requirement.

**AU-18**

<b>Sector</b>	Telecommunications
<b>Obligations Concerned</b>	National Treatment (Article 12.4) Senior Management and Boards of Directors (Article 12.7)
<b>Level of Government</b>	Central
<b>Measures</b>	<i>Telstra Corporation Act 1991</i> (Cth)
<b>Description</b>	<u>Establishment and Related Provisions</u>  Aggregate foreign equity is restricted to no more than 35 per cent of shares of Telstra. Individual or associated group foreign investment is restricted to no more than five per cent of shares.  The Chairperson and a majority of directors of Telstra must be Australian citizens and Telstra is required to maintain its head office, main base of operations and place of incorporation in Australia.

## AU-19

<b>Sector</b>	Distribution Services
<b>Obligations Concerned</b>	Local Presence (Article 7.5)
<b>Level of Government</b>	Regional
<b>Measures</b>	<i>Firearms Act 2017</i> (NT)
<b>Description</b>	<u>Cross-Border Trade in Services</u>

### Northern Territory

Grant of a firearms licence<sup>20</sup> requires residency in the Northern Territory. Licences and permits expire three months after the holder ceases to reside permanently in the Northern Territory.

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<sup>20</sup> “Firearms licences” include firearms dealer licences, firearms armourer licences, firearms museum licences, firearms collector licences, firearms employee licences and paintball operator licences.

## **AU-20**

<b>Sector</b>	Distribution Services
<b>Obligations Concerned</b>	Local Presence (Article 7.5)
<b>Level of Government</b>	Regional
<b>Measures</b>	<i>Liquor Act 2018</i> (NT) and policy and practice <i>Kava Management Act 2016</i> (NT) <i>Tobacco Control Act 2016</i> (NT) and policy and practice
<b>Description</b>	<p><u>Cross-Border Trade in Services</u></p> <p><u>Northern Territory</u></p> <p>The Northern Territory Licensing Commission may require a liquor licensee if the licensee is an individual, or at least one of the licensees if the licence is held by a partnership, or the licence nominee if the licence is held by a corporation, to ordinarily reside within the general locality of the premises to which the licence relates.</p> <p>An applicant for a retail licence for kava must ordinarily reside or carry on business in the relevant licence area in the Northern Territory.</p> <p>The holder of a tobacco retail licence may only sell tobacco products from the premises specified in the licence.</p> <p>A tobacco retail licence in relation to liquor licensed premises may only be granted to the liquor licensee of those premises.</p>

**AU-21**

<b>Sector</b>	Distribution Services
<b>Obligations Concerned</b>	Performance Requirements (Article 12.6)
<b>Level of Government</b>	Regional
<b>Measures</b>	<i>Wine Industry Act 1994</i> (Qld)
<b>Description</b>	<u>Establishment and Related Provisions</u>

Queensland

In order to obtain a wine merchant's licence to sell wine, the business conducted by a person under the licence must contribute to the Queensland wine industry in a substantial way. In order to obtain a wine producer's licence to sell wine, a person must be selling wine made from fruit grown by the person on the premises to which the licence relates, or selling wine made by the person on the premises to which the licence relates.

## AU-22

<b>Sector</b>	Health Services
<b>Obligations Concerned</b>	National Treatment (Article 12.4) Senior Management and Boards of Directors (Article 12.7)
<b>Level of Government</b>	Central
<b>Measures</b>	<i>Commonwealth Serum Laboratories Act 1961</i> (Cth)
<b>Description</b>	<u>Establishment and Related Provisions</u>

The votes attached to significant foreign shareholdings<sup>21</sup> may not be counted in respect of the appointment, replacement or removal of more than one-third of the directors of Commonwealth Serum Laboratories (CSL) who hold office at a particular time. The head office, principal facilities used by CSL and any CSL subsidiaries used to produce products derived from human plasma collected from blood or plasma donated by individuals in Australia must remain in Australia. Two-thirds of the directors of the board of CSL and the chairperson of any meeting must be Australian citizens. CSL must not seek incorporation outside of Australia.

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<sup>21</sup> For the purposes of this entry, “significant foreign shareholding” means a holding of voting shares in CSL in which a foreign person has a relevant interest, if the foreign person has relevant interests in at least five per cent of the voting shares in CSL.

## AU-23

<b>Sector</b>	Recreational, Cultural and Sporting Services
<b>Obligations Concerned</b>	Local Presence (Article 7.5)
<b>Level of Government</b>	Regional
<b>Measures</b>	<i>Nature Conservation Act 1992 (Qld)</i> <i>Nature Conservation (Wildlife Management) Regulation 2006 (Qld)</i> <i>Nature Conservation (Administration) Regulation 2006 (Qld)</i>

**Description** Cross-Border Trade in Services

Queensland

The Chief Executive of the Queensland Department of Environment and Heritage Protection may grant a wildlife authority<sup>22</sup>, other than a wildlife movement permit, to a corporation only if the corporation has an office in the State.

The Chief Executive may approve a person to be an authorised cultivator or propagator for protected plants only if:

- (a) in the case of a natural person, the person is a resident of the State; or
- (b) if the person is a corporation, the corporation has premises in the State at which the plants are to be cultivated or propagated.

An individual or corporation is only taken to be a “person aggrieved” by a decision, failure to make a decision or conduct under the Act if the individual is an Australian citizen or ordinarily resident in Australia or, if a corporation, established in Australia.

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<sup>22</sup> The term “wildlife authority” is defined in Schedule 7 of the *Nature Conservation (Administration) Regulation 2006 (Qld)*.

## AU-24

<b>Sector</b>	Transport Services
<b>Obligations Concerned</b>	National Treatment (Articles 7.4 and 12.4) Local Presence (Article 7.5)
<b>Level of Government</b>	Central
<b>Measures</b>	<i>Competition and Consumer Act 2010</i> (Cth)
<b>Description</b>	<u>Cross-Border Trade in Services, and Establishment and Related Provisions</u>

Every ocean carrier who provides international liner cargo shipping services to or from Australia must, at all times, be represented by a natural person who is resident in Australia.

Only a person <sup>23</sup> affected by a registered conference agreement or by a registered non-conference ocean carrier with substantial market power may apply to the Australian Competition and Consumer Commission to examine whether conference members, and non-conference operators with substantial market power, are hindering other shipping operators from engaging efficiently in the provision of outward liner cargo services to an extent that is reasonable. For greater certainty, matters which are relevant to the determination of “reasonable” include Australia’s national interest and the interests of Australian shippers.

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<sup>23</sup> For the purposes of this entry, Sections 10.48 and 10.58 of Part X of the *Competition and Consumer Act 2010* (Cth) list the categories of persons to whom this entry will apply.

**AU-25**

<b>Sector</b>	Transport Services
<b>Obligations Concerned</b>	National Treatment (Article 12.4) Senior Management and Boards of Directors (Article 12.7)
<b>Level of Government</b>	Central
<b>Measures</b>	<i>Air Navigation Act 1920</i> (Cth) Ministerial Statements
<b>Description</b>	<p><u>Establishment and Related Provisions</u></p> <p>Total foreign ownership of Australian international airlines (other than Qantas) is restricted to a maximum of 49 per cent.</p> <p>Furthermore, it is required that:</p> <ul style="list-style-type: none"><li>(a) at least two-thirds of the Board members must be Australian citizens;</li><li>(b) the Chairperson of the Board must be an Australian citizen;</li><li>(c) the airline's head office must be in Australia; and</li><li>(d) the airline's operational base must be in Australia.</li></ul>

## AU-26

<b>Sector</b>	Transport Services
<b>Obligations Concerned</b>	National Treatment (Article 12.4) Senior Management and Boards of Directors (Article 12.7)
<b>Level of Government</b>	Central
<b>Measures</b>	<i>Qantas Sale Act 1992</i> (Cth)
<b>Description</b>	<p><u>Establishment and Related Provisions</u></p> <p>Total foreign ownership of Qantas Airways Ltd is restricted to a maximum of 49 per cent. In addition:</p> <ul style="list-style-type: none"><li>(a) the head office of Qantas must always be located in Australia;</li><li>(b) the majority of Qantas' operational facilities must be located in Australia;</li><li>(c) at all times, at least two-thirds of the directors of Qantas must be Australian citizens;</li><li>(d) at a meeting of the board of directors of Qantas, the director presiding at the meeting (however described) must be an Australian citizen; and</li><li>(e) Qantas is prohibited from taking any action to become incorporated outside Australia.</li></ul>

## AU-27

<b>Sector</b>	Transport Services
<b>Obligations Concerned</b>	Local Presence (Article 7.5) National Treatment (Articles 7.4 and 12.4)
<b>Level of Government</b>	Regional
<b>Measures</b>	<i>Commercial Passenger (Road Transport) Act 2014 (NT)</i> <i>Road Transport (Public Passenger Services) Regulation 2002 (ACT)</i> <i>Taxi Act 1994 (WA)</i> <i>Transport Coordination Act 1996 (WA)</i>
<b>Description</b>	<p><u>Cross-Border Trade in Services, and Establishment and Related Provisions</u></p> <p><u>Northern Territory</u></p> <p>A taxi licence will be cancelled if the holder, being an individual, has not been ordinarily resident in the Northern Territory for more than six months or, being a body corporate, has ceased for more than six months to have its principal place of business in the Northern Territory.</p> <p><u>Australian Capital Territory</u></p> <p>An application for accreditation to run a public transport service must be made by an Australian citizen or permanent resident of Australia.</p> <p><u>Western Australia</u></p> <p>To hold a Government Lease taxi plate, the plate holder must be an Australian citizen or a permanent resident.</p>