

## ANNEX III

### SCHEDULE OF AUSTRALIA

#### INTRODUCTORY NOTES

1. Commitments under Chapter 10 (Financial Services) are undertaken subject to the limitations and conditions set forth in these headnotes and the Schedule below.
2. To clarify Australia's commitment with respect to Article 10.5 (Market Access for Financial Institutions), juridical persons supplying financial services and constituted under the laws of Australia are subject to non-discriminatory limitations on juridical form.<sup>1</sup>
3. Article 10.10.1(c) (Non-Conforming Measures) shall not apply to non-conforming measures relating to Article 10.5(b) (Market Access for Financial Institutions).
4. **Description** sets out the non-conforming measure for which the entry is made.
5. For Section A of this Schedule, in accordance with Article 10.10.1 (Non-Conforming Measures), the Articles specified in the **Obligations Concerned** element of an entry shall not apply to the non-conforming measures identified in the **Description** element of that entry.

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<sup>1</sup> For example, partnerships and sole proprietorships are generally not acceptable juridical forms for authorised depository institutions in Australia. This headnote is not itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.

## Section A

<b>Sector:</b>	Financial Services
<b>Sub-Sector:</b>	Banking and other financial services (excluding insurance)
<b>Obligation Concerned:</b>	National Treatment (Article 10.3) Market Access for Financial Institutions (Article 10.5)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Banking Act 1959 (Cth)</i> <i>Payment Systems (Regulation) Act 1998 (Cth)</i>
<b>Description:</b>	<p>A branch of a foreign bank that is authorised as a deposit taking institution in Australia (foreign ADI) is not permitted to accept initial deposits (and other funds) from individuals and non-corporate institutions of less than \$A250,000.</p> <p>A representative office of a foreign bank is not permitted to undertake any banking business, including advertising for deposits, in Australia. Such a representative office is only permitted to act as a liaison point.</p>

<b>Sector:</b>	Financial Services
<b>Sub-Sector:</b>	All
<b>Obligation Concerned:</b>	Senior Management and Boards of Directors (Article 10.9)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Corporations Act 2001 (Cth)</i> <i>Corporations Regulations 2001 (Cth)</i>
<b>Description:</b>	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.

<b>Sector:</b>	Financial Services
<b>Sub-Sector:</b>	All
<b>Obligation Concerned:</b>	National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Market Access for Financial Institutions (Article 10.5) Cross-Border Trade (Article 10.6) Senior Management and Boards of Directors (Article 10.9)
<b>Level of Government:</b>	Regional
<b>Measures:</b>	All existing non-conforming measures at the regional level of government.
<b>Description:</b>	All existing non-conforming measures at the regional level of government.

<b>Sector:</b>	Financial Services
<b>Sub-Sector:</b>	Banking and other financial services (excluding insurance)
<b>Obligation Concerned:</b>	National Treatment (Article 10.3)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Commonwealth Banks Act 1959 (Cth)</i>
<b>Description:</b>	Liabilities of the Commonwealth Bank, previously Commonwealth Government-owned, are covered by transitional guarantee arrangements.

<b>Sector:</b>	Financial Services
<b>Sub-Sector:</b>	Life insurance services
<b>Obligation Concerned:</b>	National Treatment (Article 10.3) Market Access for Financial Institutions (Article 10.5)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Life Insurance Act 1995 (Cth)</i>
<b>Description:</b>	Approval of non-resident life insurers is restricted to subsidiaries incorporated under Australian law.

## **Section B**

**Sector:** Financial Services

**Sub-Sector:** All

**Obligation Concerned:** National Treatment (Article 10.3)

**Level of Government:** Central and regional

**Description:** Australia reserves the right to adopt or maintain any measure with respect to the guarantee by government of government-owned entities whose operations include the provision of financial services, including guarantees related to the privatisation of such entities.