

ANNEX 6

AUSTRALIA'S RESERVATIONS TO CHAPTER 9 (FINANCIAL SERVICES)

HEADNOTES

1. Commitments under Chapter 9 (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 5 (Market Access for Financial Institutions) of Chapter 9 (Financial Services), juridical persons supplying financial services and constituted under the laws of Australia are subject to non-discriminatory limitations on juridical form.¹
3. Article 10.1(c) (Non-Conforming Measures) of Chapter 9 (Financial Services) shall not apply to non-conforming measures relating to Article 5(b) (Market Access for Financial Institutions) of Chapter 9 (Financial Services).

¹ 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.

ANNEX 6

Section A

A-1

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Type of Reservation	National Treatment Market Access for Financial Institutions
Level of Government:	Central
Source of Measure:	<i>Banking Act 1959</i> (Cth) <i>Payment Systems (Regulation) Act 1998</i> (Cth)

Description of Reservation: 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.

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.

A-2

Sector:	Financial Services
Sub-Sector:	All
Type of Reservation:	Senior Management and Boards of Directors
Level of Government:	Central
Source of Measure:	<i>Corporations Act 2001</i> (Cth) <i>Corporations Regulations 2001</i> (Cth)
Description of Reservation:	<p>At least one director of a private company must be ordinarily resident in Australia.</p> <p>At least two directors of a public company must be ordinarily resident in Australia.</p>

A-3

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

A-4

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

A-5

Sector: Financial Services

Sub-Sector:

Type of Reservation: National Treatment

Level of Government: Regional

Source of Measure: *Second-hand Dealers and Pawnbrokers Act 2003* (Qld)

Description of Reservation: A person operating as a second-hand dealer or as a pawnbroker must have a principal place of business in Queensland where a document can be served personally A post office box does not suffice.

A-6

Sector: Financial Services

Sub-Sector:

Type of Reservation: National Treatment

Level of Government: Regional

Source of Measure: *Credit (Administration) Act 1984 (WA)*
Credit (Administration) Regulations 1985 (WA)
Debt Collectors Licensing Act 1964 (WA)
Debt Collectors Licensing Regulations 1964 (WA)
Finance Brokers Control Act 1975 (WA)
Finance Brokers (General) Regulations 1977 (WA)

Description of Reservation: A natural person (whether alone or in partnership with other persons) or an incorporated body seeking to carry on a business of providing credit in Western Australia (including where the provision of the credit is connected with the carrying on of another business), must have a principal office in Australia and a principal place of business in Western Australia.

Any person (including an incorporated body) seeking to exercise or carry on the business or any functions of a debt collector in Western Australia, must have a principal place of business in the State.

A natural person seeking to carry on business as a finance broker in Western Australia must be ordinarily resident in Western Australia. A finance broker must have a registered office in Western Australia while carrying on business as a broker.

A-7

Sector:	Financial Services
Sub-Sector:	All
Type of Reservation:	Market Access for Financial Institutions
Level of Government:	Regional
Description of Reservation:	Australia reserves the right to adopt or maintain any measure at the regional level of government that is not inconsistent with Australia's obligations under Article XVI of GATS.

ANNEX 6

Section B

B-1

Sector: Financial Services

Sub-Sector: All

Type of Reservation: National Treatment

Level of Government: Central and regional

Description of Reservation: 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.