

ANNEX III

SCHEDULE OF AUSTRALIA

INTRODUCTORY NOTES

1. For Section A of this Schedule, “Description” sets out the non-conforming measure for which the entry is made.
2. For Section A of this Schedule, in accordance with Article 9.10 (Non-Conforming Measures – Financial Services), the articles of this Agreement specified in the “Obligations concerned” element of an entry do not apply to the non-conforming measures identified in the “Description” element of that entry.
3. Australia reserves the right to maintain and to add to Section A of this Schedule any non-conforming measure at the regional level of government that existed at 1 January 2005, but was not listed in this Schedule at the date of entry into force of this Agreement against the following obligations:
 - (a) Article 9.5 (National Treatment – Financial Services);
 - (b) Article 9.6 (Market Access – Financial Services);
 - (c) Article 9.7 (Local Presence – Financial Services);
 - (d) Article 9.8 (Most-Favoured-Nation Treatment – Financial Services);
and
 - (e) Article 9.9 (Senior Management and Boards of Directors – Financial Services).
4. Any existing non-conforming measure that is maintained and added to this Schedule pursuant to paragraph 3 shall include any amendment to that non-conforming measure since 1 January 2005, to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment.
5. For greater certainty, where Australia has more than one entry in Annex III – Section B that could apply to a measure, each entry is to be read independently, and is without prejudice to the application of any other entry to the measure.
6. All dollar figures are in Australian dollars unless specified otherwise.

Section A

1	Sector	Financial Services
	Obligations concerned	National Treatment Market Access
	Level of government	Central
	Measures	<i>Banking Act 1959 (Cth)</i> <i>Payment Systems (Regulation) Act 1998 (Cth)</i>
	Description	<p>A foreign bank located overseas is able to offer its services to Australian enterprises, but is not allowed to raise deposit funds in Australia or undertake business within Australia unless it is an authorised bank (or establishes a money market corporation, subsidiary, etc.).</p> <p>Foreign banks located overseas may only raise funds in Australia through the issue of debt securities provided those securities are offered or traded in parcels of not less than \$500,000 and the securities and any associated information memoranda clearly state the issuing bank is not authorised under the <i>Banking Act 1959 (Cth)</i> in Australia.</p> <p>To undertake banking business in Australia an entity must be a body corporate and authorised as an authorised deposit-taking institution (ADI).</p> <p>Foreign deposit-taking institutions (including foreign banks) may only operate a banking business in Australia through locally incorporated deposit-taking subsidiaries or authorised branches (foreign ADIs), or through both structures.</p> <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 \$250,000.</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>
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2	Sector	Financial Services
	Obligations concerned	National Treatment Market Access Local Presence
	Level of government	Central
	Measures	<i>Life Insurance Act 1995 (Cth)</i>
	Description	Approval of non-resident life insurers is restricted to subsidiaries incorporated under Australian law.

3	Sector	Financial Services
	Obligations concerned	National Treatment
	Level of government	Central
	Measures	<i>Commonwealth Banks Act 1959</i> (Cth)
	Description	Liabilities of the Commonwealth Bank, previously Commonwealth Government-owned, are covered by transitional guarantee arrangements.

4	Sector	Financial Services
	Obligations concerned	National Treatment Senior Management and Boards of Directors
	Level of government	Central
	Measures	<i>Corporations Act 2001 (Cth)</i> <i>Corporations Regulations 2001 (Cth)</i>
	Description	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.

5	Sector	Financial Services
	Obligations concerned	Market Access
	Level of government	Regional
	Measures	
	Description	<p>The following state and territory Governments operate central financing authorities through which the Government's wholly or partly owned statutory authorities and business enterprises are obliged to borrow, and in some cases invest, their funds, or otherwise obtain certain financial services:</p> <p><u>South Australia</u></p> <p>South Australian Government Financing Authority, Local Government Finance Authority of South Australia</p> <p><u>Tasmania</u></p> <p>The Tasmanian Public Finance Corporation</p> <p><u>New South Wales</u></p> <p>New South Wales Treasury Corporation</p> <p><u>Victoria</u></p> <p>Treasury Corporation of Victoria</p> <p><u>Queensland</u></p> <p>Queensland Treasury Corporation, Queensland Investment Corporation</p> <p><u>Northern Territory</u></p> <p>Northern Territory Treasury Corporation</p> <p><u>Western Australia</u></p>

		Western Australia Treasury Corporation
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6	Sector	Financial services
	Obligations concerned	Market Access
	Level of government	Regional
	Measures	
	Description	<p>The following state and territory Governments maintain restrictions, by way of monopolies or licensing provisions and associated controls on premiums and other terms of policies, in the following areas of insurance:</p> <p>Compulsory Third Party Motor Vehicle Accident: Victoria, Western Australia, Tasmania, the Northern Territory (monopolies), New South Wales, Queensland, South Australia, the Australian Capital Territory (licensing, premiums/policy terms).</p> <p>Workers Compensation: South Australia, Victoria, Queensland (monopoly), New South Wales, Western Australia, Tasmania, and the Northern Territory (licensing, premiums/policy terms).</p>

7	Sector	Financial Services
	Obligations concerned	National Treatment Local Presence
	Level of government	Regional
	Measures	<i>Credit (Administration) Act 1984 (WA)</i> <i>Credit (Administration) Regulations 1985 (WA)</i> <i>Debt Collectors Licensing Act 1964 (WA)</i> <i>Debt Collectors Licensing Regulations 1964 (WA)</i> <i>Finance Brokers Control Act 1975 (WA)</i> <i>Finance Brokers Control (General) Regulations 2005 (WA)</i>
	Description	<p><u>Western Australia</u></p> <p>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.</p> <p>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 Western Australia.</p> <p>A natural person seeking to carry on business as a finance broker in Western Australia must ordinarily be resident in Western Australia. A finance broker must have a registered office in Western Australia while carrying on business as a broker.</p>

8	Sector	Financial services
	Obligations concerned	National Treatment Local Presence
	Level of government	Regional
	Measures	<i>Second-hand Dealers and Pawnbrokers Act 2003</i> (Qld)
	Description	<u>Queensland</u> 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.

Section B

1	Sector	Financial Services
	Level of government	Central and Regional
	Obligations concerned	Market Access
	Description	Australia reserves the right to adopt or maintain any measure imposing non-discriminatory limitations on juridical form for juridical persons supplying financial services and constituted under the laws of Australia. For example, partnerships and sole proprietorships are generally not acceptable juridical forms for authorised depository institutions in Australia. ¹
	Existing Measures	

¹ This entry is not itself intended to affect, or otherwise limit, a choice by a financial service supplier of the other Party between branches or subsidiaries.

2	Sector	Financial Services
	Level of government	Central and Regional
	Obligations concerned	National Treatment Senior Management and Boards of Directors
	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.
	Existing Measures	

3	Sector	Financial Services
	Level of government	Central and Regional
	Obligations concerned	Market Access Local Presence
	Description	Australia reserves the right to adopt or maintain any measure with respect to the supply of a service by the presence of natural persons, subject to the provisions of Chapter 11 (Temporary Entry for Business Persons), that is not inconsistent with Australia's obligations under Article XVI of GATS.
	Existing Measures	