

## ANNEX III

### SCHEDULE OF AUSTRALIA

#### HEADNOTES

1. Commitments under Chapter 11 (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 11.5 (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 11.10.1(c) (Non-Conforming Measures) shall not apply to non-conforming measures relating to Article 11.5(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 11.10.1 (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.

## ANNEX III

### Section A

|                               |   |
|-------------------------------|---|
| <b>Sector:</b>                | Financial Services  |
| <b>Sub-Sector:</b>            | Banking and other financial services (excluding insurance)  |
| <b>Obligations Concerned:</b> | National Treatment (Article 11.3)<br>Market Access for Financial Institutions (Article 11.5)  |
| <b>Level of Government:</b>   | Central   |
| <b>Measures:</b>              | <i>Banking Act 1959 (Cth)</i><br><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> |

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|-------------------------------|--|
| <b>Sector:</b>                | Financial Services   |
| <b>Sub-Sector:</b>            | All  |
| <b>Obligations Concerned:</b> | Senior Management and Boards of Directors (Article 11.9)   |
| <b>Level of Government:</b>   | Central  |
| <b>Measures:</b>              | <i>Corporations Act 2001 (Cth)</i><br><i>Corporations Regulations 2001 (Cth)</i>   |
| <b>Description:</b>           | At least one director of a private company must be ordinarily resident in Australia.<br><br>At least two directors of a public company must be ordinarily resident in Australia. |

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| <b>Sector:</b>                | Financial Services   |
| <b>Sub-Sector:</b>            | All  |
| <b>Obligations Concerned:</b> | National Treatment (Article 11.3)<br>Most-Favoured-Nation Treatment (Article 11.4)<br>Market Access for Financial Institutions (Article 11.5)<br>Cross-Border Trade (Article 11.6)<br>Senior Management and Boards of Directors (Article 11.9) |
| <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>Obligations Concerned:</b> | National Treatment (Article 11.3)   |
| <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. |

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|-------------------------------|---|
| <b>Sector:</b>                | Financial Services  |
| <b>Sub-Sector:</b>            | Life insurance services   |
| <b>Obligations Concerned:</b> | National Treatment (Article 11.3)<br>Market Access for Financial Institutions (Article 11.5)            |
| <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. |

## ANNEX III

### Section B

|                               |  |
|-------------------------------|--|
| <b>Sector:</b>                | Financial Services   |
| <b>Sub-Sector:</b>            | All  |
| <b>Obligations Concerned:</b> | National Treatment (Article 11.3)  |
| <b>Level of Government:</b>   | Central and regional   |
| <b>Description:</b>           | 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. |