

## ANNEX III

### SCHEDULE OF BRUNEI DARUSSALAM

#### 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 Brunei Darussalam's commitment with respect to Article 11.5(b) (Market Access for Financial Institutions), juridical persons supplying financial services and constituted under the laws, regulations and guidelines of Brunei Darussalam are subject to non-discriminatory limitations on juridical form.<sup>1</sup>
3. All financial institutions offering Islamic financial products and services shall be subject to the Syariah requirements as determined by the laws of Brunei Darussalam and any supervisory bodies for the control of the administration and business dealings of financial institutions concerning Islamic products and any matters connected thereto.
4. **Description** sets out the non-conforming measure for which the entry is made.
5. For entries in Section A, in accordance with Article 11.10.1(a) (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.
6. For entries in Section B, in accordance with Article 11.10.2 (Non-Conforming Measures), the Articles specified in the **Obligations Concerned** element of an entry shall not apply to the sectors, subsectors and activities identified in the **Description** element of that entry.
7. Brunei Darussalam reserves the right to require a foreign bank branch that is systemically important to be a locally incorporated bank in Brunei Darussalam, subject to the following prerequisites:
  - (a) such measure is imposed in a reasonable, objective and impartial manner;
  - (b) Brunei Darussalam shall take in due consideration the quality of home regulation and supervision over the bank, degree of protection accorded to depositors in the home country with respect to depositors in Brunei Darussalam, and the amount of assets held in Brunei Darussalam;

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

- (c) prior to the imposition of the requirement, the bank and the Party where the bank originates from shall be notified at least six months in advance of Brunei Darussalam's intention to locally incorporate the bank;
- (d) Brunei Darussalam shall engage the Party concerned in consultations regarding the requirement and provide due consideration to the views expressed by the Party concerned in this regard; and
- (e) provide considerable duration for the bank to comply with the requirement.

## ANNEX III

### Section A

<b>Sector:</b>	Financial Services
<b>Sub-Sector:</b>	Finance companies
<b>Obligations Concerned:</b>	Market Access for Financial Institutions (Article 11.5)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Finance Companies Act</i> (Chapter 89)
<b>Description:</b>	A finance company must be established as a company incorporated in Brunei Darussalam.

<b>Sector:</b>	Financial Services
<b>Sub-Sector:</b>	Money-changing and remittance businesses
<b>Obligations Concerned:</b>	National Treatment (Article 11.3) Market Access for Financial Institutions (Article 11.5)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Money-Changing and Remittance Businesses Act</i> (Chapter 174)
<b>Description:</b>	Only Bruneian citizens are allowed to carry on money-changing and money remittance businesses.  There is a limit to the number of licences awarded for these businesses.

<b>Sector:</b>	Financial Services
<b>Sub-Sector:</b>	Insurance
<b>Obligations Concerned:</b>	Cross-Border Trade (Article 11.6)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Motor Vehicles Insurance (Third Party Risks) Act</i> (Chapter 90) <i>Workmen's Compensation Act</i> (Chapter 74)
<b>Description:</b>	Compulsory insurance of motor third party liability and workmen's compensation can only be purchased directly or through an intermediary from licensed insurance companies or takaful operators in Brunei Darussalam.

<b>Sector:</b>	Financial Services
<b>Sub-Sector:</b>	Insurance intermediaries
<b>Obligations Concerned:</b>	National Treatment (Article 11.3) Market Access for Financial Institutions (Article 11.5)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Insurance Order, 2006</i> <i>Takaful Order, 2008</i> <i>Companies Act (Chapter 39)</i> <i>Business Names Act (Chapter 92)</i>
<b>Description:</b>	<ol style="list-style-type: none"> <li>1.     <u>Insurance agents</u>  Only Brunei nationals are allowed to be registered as an insurance agent in Brunei Darussalam.</li> <li>2.     <u>Insurance brokers</u>  Insurance brokers must be established as a company incorporated in Brunei Darussalam.</li> </ol>

<b>Sector:</b>	Financial Services
<b>Sub-Sector:</b>	Banking
<b>Obligations Concerned:</b>	Cross-Border Trade (Article 11.6)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Banking Order, 2006</i> <i>Islamic Banking Order, 2008</i> <i>Outsourcing Guidelines</i>
<b>Description:</b>	<p>Any outsourcing activities by licensed banks in Brunei Darussalam are subject to approval by Autoriti Monetari Brunei Darussalam with the following conditions:</p> <ul style="list-style-type: none"> <li>(a) the outsourced activities are not related to credit assessment, processing, administration or any related core banking activities; and</li> <li>(b) the outsourcing activities will not affect financial institutions' human capital and do not involve any retrenchment of local employees.</li> </ul>

<b>Sector:</b>	Financial Services
<b>Sub-Sector:</b>	Banking
<b>Obligations Concerned:</b>	National Treatment (Article 11.3) Market Access for Financial Institutions (Article 11.5) Senior Management and Boards of Directors (Article 11.9)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Banking Order, 2006</i> <i>Islamic Banking Order, 2008</i>
<b>Description:</b>	<p>Autoriti Monetari Brunei Darussalam has absolute discretion not to grant a licence to a bank if it is satisfied that:</p> <ul style="list-style-type: none"> <li>(a) the bank is closely linked to any person who is subject to any laws of any jurisdiction outside Brunei Darussalam or administrative provisions that would prevent the effective exercise by the Autoriti Monetari Brunei Darussalam of its supervisory functions in relation to the bank; or</li> <li>(b) 50 per cent or more of its capital issued and paid-up is owned by or on behalf of a foreign government, or that all or a majority of the persons having the direction, control or management of the bank are appointed by or on behalf of any such government or agency.</li> </ul>



<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>Syariah Financial Supervisory Order, 2006</i> <i>Islamic Banking Order, 2008</i>
<b>Description:</b>	Financial institutions providing Islamic finance services are required to include Brunei nationals on their Syariah Advisory Board.

## ANNEX III

### Section B

<b>Sector:</b>	Financial Services
<b>Sub-Sector:</b>	Capital market Clearing and settlement services
<b>Obligations Concerned:</b>	National Treatment (Article 11.3) Most-Favoured-Nation Treatment (Article 11.4) Market Access for Financial Services (Article 11.5) Senior Management and Boards of Directors (Article 11.9)
<b>Level of Government:</b>	Central
<b>Description:</b>	<p>Brunei Darussalam reserves the right to limit the establishment or operation of the following:</p> <ul style="list-style-type: none"><li>(a) clearing and settlement services;</li><li>(b) central securities depository;</li><li>(c) trade repository;</li><li>(d) trading facilities;</li><li>(e) credit rating agencies;</li><li>(f) exchanges; or</li><li>(g) securities and futures market.</li></ul> <p>For greater certainty, this reservation does not apply to financial institutions participating in, or seeking to participate in, any such exchange or securities market.</p>
<b>Existing Measures:</b>	<i>Autoriti Monetari Brunei Darussalam Order, 2010</i> <i>Securities Markets Order, 2013</i>

*Payment and Settlement Systems (Oversight) Order, 2015*

<b>Sector:</b>	Financial Services
<b>Sub-Sector:</b>	Credit reporting services
<b>Obligations Concerned:</b>	National Treatment (Article 11.3) Most-Favoured-Nation Treatment (Article 11.4) Market Access for Financial Institutions (Article 11.5)
<b>Level of Government:</b>	Central
<b>Description:</b>	Brunei Darussalam reserves the right to adopt or maintain any measure relating to the establishment and operation of credit reporting services.
<b>Existing Measures:</b>	<i>Autoriti Monetari Brunei Darussalam Order, 2010</i> <i>Banking Order, 2006</i> <i>Islamic Banking Order, 2008</i>

<b>Sector:</b>	Financial Services
<b>Sub-Sector:</b>	Banking
<b>Obligations Concerned:</b>	Market Access for Financial Institutions (Article 11.5)
<b>Level of Government:</b>	Central
<b>Description:</b>	<p>Brunei Darussalam reserves the right to provide advantages to locally incorporated banks that are not available to licensed foreign bank branches such as, and not limited to, the following:</p> <ul style="list-style-type: none"> <li>(a) number of branch locations; and</li> <li>(b) types of banking business<sup>2</sup> offered.</li> </ul>
<b>Existing Measures:</b>	<p><i>Banking Order, 2006</i>  <i>Islamic Banking Order, 2008</i></p>

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<sup>2</sup> “Banking business” is as defined under Section 2, *Banking Order, 2006* and Section 2, *Islamic Banking Order, 2008*.

<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
<b>Description:</b>	<p>(a) Brunei Darussalam reserves the right to provide subsidies or grant advantages not limited to the following:</p> <ul style="list-style-type: none"> <li>(i) to government-owned or government-controlled entities for legitimate national economic development objectives; and</li> <li>(ii) to Islamic financial institutions carrying out Islamic banking, takaful or retakaful, and Islamic capital markets, for the purpose of Islamic finance development.</li> </ul> <p>(b) With respect to the Small and Medium Enterprises Financing Programme, Brunei Darussalam reserves the right to provide preferences to local financial institutions which may not be opened to foreign financial institutions.</p>
<b>Existing Measures:</b>	-