

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 (Cth)</i> <i>Payment Systems (Regulation) Act 1998 (Cth)</i>
Description of Reservation:	<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>

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:	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.

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:	<i>Credit (Administration) Act 1984 (WA)</i> Credit (Administration) Regulations 1985 (WA) <i>Debt Collectors Licensing Act 1964 (WA)</i> Debt Collectors Licensing Regulations 1964 (WA) <i>Finance Brokers Control Act 1975 (WA)</i> Finance Brokers (General) Regulations 1977 (WA)
Description of Reservation:	<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 the State.</p> <p>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.</p>

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.