

ANNEX III

PART 1: SCHEDULE OF NON-CONFORMING MEASURES

Referred to in Chapter 8 (Trade in Services) and Chapter 9 (Investment)

SCHEDULE OF AUSTRALIA

Section A

Introductory Notes

1. Section A of the Schedule of Australia sets out, pursuant to Article 8.9 (Schedule of Non-Conforming Measures) of Chapter 8 (Trade in Services) and Article 9.5 (Non-Conforming Measures) of Chapter 9 (Investment), Australia's existing measures that are not subject to some or all of the obligations imposed by:

- (a) Article 8.11 (Market Access) of Chapter 8 (Trade in Services);
- (b) Article 8.10 (National Treatment) of Chapter 8 (Trade in Services) or Article 9.3 (National Treatment) of Chapter 9 (Investment);
or
- (c) Article 8.12 (Most-Favoured-Nation Treatment) of Chapter 8 (Trade in Services) or Article 9.4 (Most-Favoured-Nation Treatment) of Chapter 9 (Investment).

Note 1: Commitments on measures with respect to or relating to trade in financial services are undertaken subject to the limitations and conditions set forth in Chapter 8 (Trade in Services), Annex 8-B (Financial Services) and Chapter 9 (Investment), these Introductory Notes and the Schedule below.

Note 2: To clarify Australia's commitment with respect to Article 8.11 (Market Access) of Chapter 8 (Trade in Services), enterprises supplying financial services and constituted under the laws of Australia are subject to non-discriminatory limitations on juridical form.¹

¹ For example, partnerships and sole proprietorships are generally not acceptable juridical forms for authorised depository institutions in Australia. This note is not itself intended to affect, or otherwise limit, a choice by a financial service supplier of the other Party between branches or subsidiaries.

Note 3: Without prejudice to other means of prudential regulation of cross-border trade in financial services, Australia reserves the right to require the non-discriminatory licensing or registration of cross-border financial service suppliers of China and of financial instruments in accordance with Article 3 (Domestic Regulation) of Annex 8-B (Financial Services).

Note 4: Australia reserves the right to adopt or maintain non-discriminatory limitations concerning admission to the market of new financial services where such measures are required to achieve prudential objectives. Australia may determine the institutional and juridical form through which a new financial service may be supplied and may require authorisation for the supply of the service. Where authorisation to supply a new financial service is required, the authorisation may only be refused for prudential reasons.

2. Each Schedule entry sets out the following elements:

- (a) “Sector” refers to the sector for which the Schedule entry is made;
- (b) “Obligations Concerned” specifies the obligation(s) referred to in paragraph 1 that, pursuant to Article 8.9 (Schedule of Non-Conforming Measures) of Chapter 8 (Trade in Services) and Article 9.5 (Non-Conforming Measures) of Chapter 9 (Investment) do not apply to the listed measure(s);
- (c) “Level of Government” indicates the level of government maintaining the listed measure(s);
- (d) “Source of Measure” means the laws, regulations or other measures that are the source of the non-conforming measure for which the Schedule entry is made. A measure cited in the “Source of Measure” element:
 - (i) means the measure as amended, continued or renewed as of the date of entry into force of this Agreement; and
 - (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure;
- (e) “Description” sets out the non-conforming measure for which the Schedule entry is made.

Note 1: In accordance with Article 8.9 (Schedule of Non-Conforming Measures) and Article 9.5 (Non-Conforming Measures) of Chapter 9 (Investment), the articles of this Agreement specified in the “Obligations Concerned” element of an entry do not apply to the non-conforming measure identified in the “Description” element of that entry.

Note 2: A reference to Market Access in the “Obligations Concerned” element of an entry specifies Australia’s obligations under Article 8.11 (Market Access) of Chapter 8 (Trade in Services).

Note 3: A reference to National Treatment in the “Obligations Concerned” element of an entry specifies Australia’s obligations under Article 8.10 (National Treatment) of Chapter 8 (Trade in Services) and Article 9.3 (National Treatment) of Chapter 9 (Investment).

Note 4: A reference to Most-Favoured-Nation in the “Obligations Concerned” element of an entry specifies Australia’s obligations under Article 8.12 (Most-Favoured-Nation Treatment) of Chapter 8 (Trade in Services) and Article 9.4 (Most-Favoured-Nation Treatment) of Chapter 9 (Investment).

3. Australia reserves the right to maintain and to add to 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 8.10 (National Treatment) of Chapter 8 (Trade in Services) and Article 9.3 (National Treatment) of Chapter 9 (Investment);
or
- (b) Article 8.12 (Most-Favoured-Nation Treatment) of Chapter 8 (Trade in Services) and Article 9.4 (Most-Favoured-Nation Treatment) of Chapter 9 (Investment).

1 Sector: All Sectors

Obligations Concerned: Market Access
National Treatment

Level of Government: Central and Regional

Source of Measure: Australia's foreign investment policy, which includes the *Foreign Acquisitions and Takeovers Act 1975 (Cth)*; *Foreign Acquisitions and Takeovers Regulations 1989 (Cth)*; *Financial Sector (Shareholdings) Act 1998 (Cth)* and Ministerial Statements. *Land Act 1994 (Qld)*; *Foreign Ownership of Land Register Act 1988 (Qld)*

Description: Commonwealth

A. The following investments² may be subject to objections by the Australian Government and may also require notification to the Government:

- (a) investments by foreign persons³ of five per cent or more in the media sector, regardless of the value of the investment;

² "Investments" means activities covered by Part II of *Foreign Acquisitions and Takeovers Act 1975 (Cth)* (FATA) or, where applicable, ministerial statements on foreign investment policy. Funding arrangements that include debt instruments having quasi-equity characteristics will be treated as direct foreign investment.

³ A "foreign person" means, as defined in section 5 of the FATA:

- (a) a natural person not ordinarily resident in Australia;
- (b) a corporation in which a natural person not ordinarily resident in Australia or a foreign corporation holds a controlling interest;
- (c) a corporation in which two or more persons, each of whom is either a natural person not ordinarily resident in Australia or a foreign corporation, hold an aggregate controlling interest;

- (b) investments by foreign persons in existing⁴ Australian businesses, or prescribed corporations,⁵ the value of whose assets

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- (d) the trustee of a trust estate in which a natural person not ordinarily resident in Australia or a foreign corporation holds a substantial interest; or
 - (e) the trustee of a trust estate in which two or more persons, each of whom is either a natural person not ordinarily resident in Australia or a foreign corporation, hold an aggregate substantial interest.

⁴ For the purposes of this entry, “existing” means in existence at the time the investment is proposed or made.

⁵ For the purposes of this entry, “prescribed corporation” means:

- (a) a trading corporation;
- (b) a financial corporation;
- (c) a corporation incorporated in a Territory under the law in force in that Territory relating to companies;
- (d) a foreign corporation that, on its last accounting date, held assets the sum of the values of which exceeded 252 million Australian Dollars (for item (b) of the entry) or 1094 million Australian Dollars (for item (c) of the entry), being assets consisting of all or any of the following:
 - (i) land situated in Australia (including legal and equitable interests in such land);
 - (ii) mineral rights;
 - (iii) shares in a corporation incorporated in Australia;
- (e) a foreign corporation that was, on its last accounting date, a holding corporation of an Australian corporation or Australian corporations, where the sum of the values on that date of the assets of the Australian corporation or Australian corporations exceeded 252 million Australian Dollars (for item (b) of the entry) or 1094 million Australian Dollars (for item (c) of the entry);
- (f) a corporation that was, on its last accounting date, a holding corporation of a foreign corporation referred to in paragraph (d) or (e) of this footnote;
- (g) a foreign corporation that, on its last accounting date, held assets of a kind or kinds referred to in paragraph (d) of this footnote, where the sum of the values on that date of those assets was not less than one-half of the sum of the values on that date of the assets of the foreign corporation and of all the subsidiaries of that corporation; or

exceeds 252 million[#] Australian Dollars in the following sectors:

- (i) the telecommunications sector;
- (ii) the transport sector, including airports, port facilities, rail infrastructure, international and domestic aviation and shipping services provided either within, or to and from, Australia;
- (iii) the supply of training or human resources, or the manufacture or supply of military goods, equipment, or technology, to the Australian or other defence forces;
- (iv) the manufacture or supply of goods, equipment or technologies able to be used for a military purpose;
- (v) the development, manufacture or supply of, or provision of services relating to, encryption and security technologies and communication systems; and
- (vi) the extraction of (or rights to extract) uranium or plutonium, or the operation of nuclear facilities;

(h) a foreign corporation that was, on its last accounting date, a holding corporation of an Australian corporation or Australian corporations, where the sum of the values on that date of the assets of that Australian corporation or those Australian corporations was not less than one-half of the sum of the values on that date of the assets of the foreign corporation and of all the subsidiaries of that corporation.

[#] This is the figure as at 1 January 2015. To be indexed on 1 January each year to the GDP implicit price deflator in the Australian National Accounts for the previous financial year. If the Agreement has not entered into force by 1 January 2016, this figure will be indexed on the date of entry into force.

- (c) investments by foreign persons in existing Australian businesses, or prescribed corporations, in all other sectors, excluding financial sector companies⁶, the value of whose total assets exceeds 1094 million[#] Australian Dollars;
- (d) acquisitions by foreign persons of developed non-residential commercial real estate valued at more than 1094 million[#] Australian Dollars;
- (e) direct investments by foreign government investors, irrespective of size;

Notified investments may be refused, subject to interim orders, and/or approved subject to compliance with certain conditions. Investments referred to in (a) through (e) for which no notification is required or received may be subject to orders under Sections 18 through 21 and 21A of the FATA.

⁶ A “financial sector company” means, as defined in section 3 of the *Financial Sector (Shareholdings) Act 1998* (Cth):

- (a) an authorised deposit-taking institution; or
- (b) an authorised insurance company; or
- (c) a holding company of a company covered by paragraph (a) or (b) of this footnote.

[#] This is the figure as at 1 January 2015. To be indexed on 1 January each year to the GDP implicit price deflator in the Australian National Accounts for the previous financial year. If the Agreement has not entered into force by 1 January 2016, this figure will be indexed on the date of entry into force.

B. The acquisition of a stake in an existing financial sector company by a foreign investor, or entry into an arrangement by a foreign investor, that would lead to an unacceptable shareholding situation or to practical control⁷ of an existing financial sector company, may be refused, or be subject to certain conditions⁸.

C. In addition to the measures identified in this entry, other entries in Section A or Section B set out additional non-conforming measures imposing specific limits on, or requirements relating to, foreign investment in the following areas:

- (a) Telstra;
- (b) Commonwealth Serum Laboratories;
- (c) Qantas Airways Ltd.;
- (d) Australian international airlines, other than Qantas;
- (e) urban land;
- (f) agricultural land;
- (g) agribusiness;
- (h) federal leased airports; and
- (i) shipping.

⁷ “Unacceptable shareholding situation” and “practical control” as defined in the *Financial Sector (Shareholdings) Act 1998* (Cth).

⁸ Ministerial statements on foreign investment policy including the Treasurer’s Press Release No. 28 of 9 April 1997.

Queensland

Certain leases (obtained at ballot), and other leases at the discretion of the Minister, may be subject to a condition that the lessee personally lives on the lease for the first seven years of its term.

While all changes to ownership of land must be registered, there is an additional duty on foreign land holders to disclose, through a prescribed notification, present interests in and acquisitions of land, disposal of interests in land and notification on ceasing to be or becoming a foreign person.

Failure to provide the information causes a breach of the Act that may result in prosecution, the imposition of financial penalties and/or forfeiture of the interest in the land to the Crown.

2	Sector:	All Sectors
	Obligations Concerned:	National Treatment
	Level of Government:	Central
	Source of Measure:	<i>Corporations Act 2001 (Cth)</i> <i>Corporations Regulations 2001 (Cth)</i>
	Description:	<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> <p>At least one secretary of a private company (if such a private company appoints one or more secretaries) must be ordinarily resident in Australia.</p> <p>At least one secretary of a public company must be ordinarily resident in Australia.</p>

3	Sector:	All Sectors
	Obligations Concerned:	National Treatment
	Level of Government:	Regional
	Source of Measure:	<i>Associations Act (NT)</i> <i>Associations Incorporations Act 1991 (ACT)</i> <i>Associations Incorporations Act 1981 (Qld)</i> <i>Association Incorporations Act 1985 (SA)</i> <i>Associations Incorporation Act 1964 (Tas)</i> <i>Associations Incorporation Reform Act 2012 (Vic)</i>
	Description:	<p><u>Northern Territory</u></p> <p>An application for the incorporation of an association⁹ must be made by a person who is a resident of the Northern Territory.</p> <p>The public officer of an incorporated association must be a person who is a resident of the Northern Territory.</p> <p><u>Australian Capital Territory</u></p> <p>An application for incorporation of an association must be made by a person who is a resident of the Australian Capital Territory.</p> <p>The public officer of an incorporated association must be a person who is a resident of the Australian Capital Territory.</p>

⁹ “Association” includes a trading association.

Queensland

The office of secretary shall become vacant if the person holding that office ceases to be a resident in Queensland, or in another State but not more than 65 kilometres from the Queensland border.

The management committee of an incorporated association must ensure the secretary is an individual residing in Queensland, or in another State but not more than 65kilometres from the Queensland border.

The members of the management committee of an incorporated association must ensure that the association has an address nominated for the service of documents on the association. The nominated address must be a place in the State where a document can be served personally on a person. A post office box is not a place that can be shown as a nominated address.

South Australia

The public officer of an incorporated association must be a person who is a resident of South Australia.

Tasmania

A person is not eligible to be appointed as a public officer of an incorporated association unless the person is resident in Tasmania.

Victoria

A person applying for the incorporation of an association must be an Australian resident.

The first secretary and secretary of an incorporated association must be Australian residents and the first secretary of an association applying for incorporation must be an Australian resident.

The first secretary of an amalgamated association must be an Australian resident.

4	Sector:	All Sectors
	Obligations Concerned:	National Treatment
	Level of Government:	Regional
	Source of Measure	<i>Cooperatives Act 2002 (ACT)</i> <i>Co-operatives (Adoption of National Law) Act 2012 (NSW)</i> <i>Co-operatives Act (NT)</i> <i>Cooperatives Act 1997 (Qld)</i> <i>Co-operatives Act 1997 (SA)</i> <i>Cooperatives Act 1999 (Tas)</i> <i>Co-operatives National Law Application Act 2013 (Vic)</i> <i>Co-operatives Act 2009 (WA)</i>
	Description:	<p><u>All Australian States and Territories</u></p> <p>Except for South Australia, a cooperative must have a registered office in each state or territory in which it operates. In South Australia, registers must be kept at an office in South Australia.</p> <p>The secretary of a cooperative must be a person ordinarily resident in Australia.</p> <p>Excluding those states and territories which have implemented the Co-operatives National Law, a foreign cooperative must appoint a person who will act as agent of the cooperative in each state or territory in which it operates.</p> <p>Excluding those states and territories which have implemented the Co-operatives National Law, a foreign</p>

cooperative must appoint a person resident in each state or territory in which it operates as a person on whom all notices and legal process may be served on behalf of the cooperative.

At least two of the directors of a cooperative must be Australian residents.

5	Sector:	All Sectors
	Obligations Concerned:	National Treatment
	Level of Government:	Regional
	Source of Measure:	<i>Partnership Act 1963 (ACT)</i> <i>Partnership Act 1892 (NSW)</i> <i>Partnership Act 1997 (NT)</i> <i>Partnership Act 1891 (Qld)</i> <i>Partnership Act 1891 (SA)</i> <i>Partnership Act 1891 (Tas)</i> <i>Partnership Act 1958 (Vic)</i>
	Description:	<u>Australian Capital Territory, New South Wales, Northern Territory, Queensland, South Australia, Tasmania and Victoria</u> A limited partnership or an incorporated limited partnership established in a State or Territory must have an office, principal office or registered office in that State or Territory.

6	Sector:	All Sectors
	Obligations Concerned:	National Treatment
	Level of Government:	Regional
	Source of Measure:	<i>Consumer Affairs and Fair Trading Act (NT)</i> <i>Consumer Affairs and Fair Trading (Trading Stamps) Regulations (NT)</i>
	Description:	<u>Northern Territory</u> A promoter of a third party trading scheme ¹⁰ must maintain an office in Australia.

¹⁰ The term “third party trading scheme” means a scheme or arrangement under which the acquisition of goods or services by a consumer from a supplier is a condition, which gives rise, or apparently gives rise, to an entitlement to a benefit from a third party in the form of goods or services or some discount, concession or advantage in connection with the acquisition of goods or services.

7 Sector: Security Services

Obligations Concerned: National Treatment

Level of Government: Regional

Source of Measure: *Security Industry Act 1997* (NSW)

Description: New South Wales

A person must be an Australian citizen or an Australian permanent resident to obtain a licence to carry on a security activity in New South Wales.

8	Sector:	Professional Services
	Obligations Concerned:	National Treatment
	Level of Government:	Central
	Source of Measure:	<i>Patents Act 1990 (Cth)</i> <i>Patent Regulations 1991 (Cth)</i>
	Description:	In order to register to practise in Australia, patent attorneys must be ordinarily resident in Australia ¹¹ .

¹¹ For the purposes of this entry, a person is taken to be “ordinarily resident” in Australia if the person has his or her home in Australia or Australia is the country of his or her permanent abode even though he or she is temporarily absent from Australia. However, the person is taken not to be “ordinarily resident” in Australia if he or she resides in Australia for a special or temporary purpose only.

9	Sector:	Professional Services
	Obligations Concerned:	National Treatment
	Level of Government:	Regional
	Source of Measure:	<i>Trustee Companies Act 1947 (ACT)</i> <i>Trustee Companies Act 1964 (NSW)</i> <i>Companies (Trustees and Personal Representatives) Act 1981 (NT)</i> <i>Trustee Companies Act 1968 (Qld)</i> <i>Trustee Companies Act 1988 (SA)</i> <i>Trustee Companies Act 1953 (Tas)</i> <i>Trustee Companies Act 1984 (Vic)</i> <i>Trustee Companies Act 1987 (WA)</i>
	Description:	<p><u>Northern Territory</u></p> <p>A body corporate may not obtain a grant of probate or act as an executor of a will, or trustee of an estate of a deceased person unless it is a “licensed trustee company” as defined in section 601RAA of the <i>Corporations Act 2001</i> (Cth), or a body corporate authorised by a law of the Northern Territory to obtain a grant of probate and so act.</p> <p><u>Western Australia</u></p> <p>A company can only act as a trustee company in Western Australia if it is a “licensed trustee company” as defined in section 601RAA of the <i>Corporations Act 2001</i> (Cth).</p> <p><u>All other Australian States and Territories</u></p>

A body corporate may not obtain a grant of probate or act as an executor of a will and any codicil unless it is a “licensed trustee company” within the meaning of Chapter 5D of the *Corporations Act 2001* (Cth).

10	Sector:	Professional Services
	Obligations Concerned:	National Treatment
	Level of Government:	Central and Regional
	Source of Measure:	<i>Corporations Act 2001 (Cth)</i> <i>Co-operative Housing and Starr-Bowkett Societies Act 1998 (NSW)</i> <i>Estate Agents Act 1980 (Vic)</i>
	Description:	<p><u>Commonwealth</u></p> <p>A person who is not ordinarily resident in Australia may be refused registration as a company auditor or liquidator. At least one partner in a firm providing auditing services must be a registered company auditor who is ordinarily resident in Australia.</p> <p><u>New South Wales</u></p> <p>A person must be ordinarily resident in New South Wales in order to be an auditor of specified kinds of societies and associations.</p> <p><u>Victoria</u></p> <p>A firm of auditors cannot audit an estate agent's accounts unless at least one member of the firm of auditors is an Australian resident.</p>

11 Sector: Professional Services

Obligations
Concerned: National Treatment

Level of Government: Regional

Source of Measure: *Architects Act* (NT)

Description: Northern Territory

To qualify for registration as an architectural partnership or company, the partnership/company must have a place of business or be carrying on business within the Northern Territory.

12 Sector: Professional Services

Obligations Concerned: National Treatment
Most-Favoured-Nation Treatment

Level of Government: Central

Source of Measure: *Migration Act 1958 (Cth)*

Description: To practise as a migration agent in Australia, a person must be an Australian citizen or permanent resident or a citizen of New Zealand with a special category visa.

13 Sector: Professional Services

Obligations Concerned: National Treatment

Level of Government: Central

Source of Measure: *Customs Act 1901 (Cth)*

Description: To act as a customs broker in Australia, service suppliers must provide the service in and from Australia.

14 Sector: Communication Services

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment

Level of Government: Central

Source of Measure: *Australian Postal Corporation Act 1989 (Cth)*

Description: Australia Post, a wholly-owned government entity, has the exclusive right to issue postage stamps and carry letters within Australia, whether the letters originated within or outside Australia. This includes:

- the collection within Australia of letters for delivery within Australia; and
- the delivery of letters within Australia.

This reservation does not include:

- the carriage of a letter weighing more than 250 grams;
- the carriage of a letter within Australia for a charge or fee that is at least four times the rate of postage that is current at the time for the carriage within Australia of a standard postal article by ordinary post¹²; and
- other exceptions to the reserved services set out in Section 30 of the *Australian Postal Corporation Act 1989 (Cth)*.

Australia Post also has certain rights, powers and immunities ascribed only to it, such as the use and access

¹² As specified in accordance with the *Australian Postal Corporation Act 1989 (Cth)* and its subordinate legislation and regulations or any amendments thereto.

to public land for the provision of postal and courier services.

15 Sector: Communication Services

Obligations Concerned: Market Access
National Treatment

Level of Government: Central

Source of Measure: *Telstra Corporation Act 1991 (Cth)*

Description: Aggregate foreign equity is restricted to no more than 35 per cent of shares of Telstra. Individual or associated group foreign investment is restricted to no more than five per cent of shares.

The chairperson and a majority of directors of Telstra must be Australian citizens and Telstra is required to maintain its head office, main base of operations and place of incorporation in Australia.

16	Sector:	Research and Development Services
	Obligations Concerned:	National Treatment
	Level of Government:	Regional
	Source of Measure:	<i>Biodiscovery Act 2004</i> (Qld)
	Description:	<u>Queensland</u> Benefit sharing agreements require sublicences for use of samples or derivatives to conduct biodiscovery research and commercialisation to be offered first to Queensland-based entities, then to Australian-based entities, and then to overseas-based entities. Any entity with a benefit sharing agreement must obtain consent before granting a sublicense to an overseas-based entity.

17 Sector: Real Estate and Distribution Services

Obligations Concerned: National Treatment

Level of Government: Regional

Source of Measure: *Community Land Management Act 1989 (NSW)*
Strata Schemes Management Act 1996 (NSW)
Property, Stock and Business Agents Act 2002 (NSW)
Agents Licensing Act (NT)
Agents Act 2003 (ACT)
Property Agents and Motor Dealers Act 2000 (Qld)
Estate Agents Act 1980 (Vic)
Conveyancers Act 2006 (Vic)
Real Estate and Business Agents Act 1978 (WA)
Real Estate and Business Agents (General) Regulations 1979 (WA)
Settlement Agents Act 1981 (WA)
Settlement Agents Regulations 1982 (WA)

Description:

New South Wales

A person cannot be appointed as an agent (for a proprietor of a development lot, neighbourhood lot or strata lot) if they are not an Australian resident. A person cannot be appointed as an agent (for an owner of a lot, for dealings with the owner's corporation) if they are not an Australian resident. To be licensed as a property, stock, business, strata managing or community managing agent in NSW, licensees must have a registered office in New South Wales.

Northern Territory

A licensed agent¹³ must maintain an office in Australia at or from which the conduct of business under the licence is to occur.

Australian Capital Territory

An estate agent must have their principal place of business in the Australian Capital Territory.

Queensland

In order to operate as a real estate agent, auctioneer, motor dealer or commercial agent, a person must have a business address in Queensland. This must be a physical address and not a post box.

Victoria

¹³ A "licensed agent" includes a real estate agent, business agent or conveyancing agent.

A person cannot be licensed as an estate agent unless they have a registered office in Victoria and they must maintain a principal office in Victoria. An agent's representative must have a registered address in Victoria to which documents can be sent.

A person cannot be licensed as a conveyancer or carry on a conveyancing business in Victoria unless they maintain a principal place of business in Victoria.

Western Australia

A person seeking to carry on business as a real estate or business agent in Western Australia must establish and maintain a registered office in the State.

A person seeking to carry on business as a settlement agent (conveyancer) in Western Australia must ordinarily reside in the State.

A licensed settlement agent must establish and maintain a registered office in the State.

18 Sector: Fishing and Pearling

Obligations Concerned: Market Access
National Treatment

Level of Government: Central and Regional

Source of Measure: *Fisheries Management Act 1991 (Cth)*
Foreign Fishing Licences Levy Act 1991 (Cth)
Fisheries Management Act 1994 (NSW)
Fisheries Act 1995 (Vic)
Fish Resources Management Act 1994 (WA)
Pearling Act 1990 (WA)
Ministerial Policy Guideline No. 17 of August 2001 (WA)

Description: Commonwealth

Foreign fishing vessels¹⁴ seeking to undertake fishing activity, including any activity in support of or in preparation for any fishing activity or the processing, carrying or transshipment of fish, in the Australian Fishing Zone must be authorised.

Where foreign fishing vessels are authorised to undertake such fishing activity, they may be subject to a levy¹⁵.

New South Wales

¹⁴ For the purposes of this reservation, a “foreign fishing vessel” is one that does not meet the definition of an Australian boat under the *Fisheries Management Act 1991* (Cth), that is, an Australian-flagged boat (not owned by a foreign resident) or a boat owned by an Australian resident or corporation and built, and whose operations are based, in Australia.

¹⁵ The levy charged will be in accordance with the *Foreign Fishing Licences Levy Act 1991* (Cth) or any amendments thereto.

A foreign person or a foreign-owned body is not permitted to hold shares in a share management fishery.

Victoria

A fishery access licence or aquaculture licence can only be issued to a natural person who is an Australian resident, or to a single corporation that has a registered office in Australia.

Western Australia

Only an individual who is an Australian citizen or permanent resident may be a licensee within the Western Australian pearling industry.

In the case of corporations, partnerships or trusts holding licences, these must be Australian owned and/or controlled (at least 51 per cent of the issued share capital, partnership interest or trust property must be owned by Australians; the chairman, majority of the board of directors and all the company officers must be Australians and must be nominated by, and represent, Australian interests).

19 Sector: Mining and Related Services

Obligations Concerned: National Treatment

Level of Government: Regional

Source of Measure: *Mount Isa Mines Limited Agreement Act 1985 (Qld)*

Description: Queensland

The operator of Mount Isa Mines shall, so far as is reasonably and economically practicable:

- (a) use the services of professional consultants resident and available within Queensland;
- (b) use labour available within Queensland;
- (c) when preparing specifications, calling for tenders and letting contracts for works, materials, plant, equipment and supplies ensure that Queensland suppliers, manufacturers, and contractors are given reasonable opportunity to tender or quote; and
- (d) give proper consideration and where possible preference to Queensland suppliers, manufacturers and contractors when letting contracts or placing orders for works, materials, plant, equipment and supplies where price, quality, delivery and service are equal to or better than that obtainable elsewhere.

20 Sector: Other Business Services

Obligations
Concerned: National Treatment

Level of Government: Regional

Source of Measure: *Prostitution Regulation Act* (NT)

Description: Northern Territory

To be eligible for the grant of an operator's licence or a manager's licence in respect of an escort agency business, an individual must be resident in the Northern Territory.

For a body corporate to be granted an operator's licence, its officers must also meet the residency requirement.

21 Sector: Distribution Services

Obligations Concerned: National Treatment

Level of Government: Regional

Source of Measure: *Rice Marketing Act 1983 (NSW)*
Marketing of Potatoes Act 1946 (WA)

Description: New South Wales and Western Australia

New South Wales retains marketing board arrangements for rice and Western Australia retains marketing board arrangements for potatoes.

22 Sector: Distribution Services

Obligations
Concerned: National Treatment

Level of Government: Regional

Source of Measure: *Firearms Act* (NT)

Description: Northern Territory

Grant of a firearms licence¹⁶ requires residency in the Northern Territory. Licences and permits expire three months after the holder ceases to reside permanently in the Northern Territory.

¹⁶ Firearms licences include but are not limited to firearms dealer's licence, armourer's licence, firearms museum licence, firearms collector's licence, firearms employee licence, and paintball operator's licence.

23 Sector: Distribution Services

Obligations
Concerned: National Treatment

Level of Government: Regional

Source of Measure: *Liquor Act* (NT) and policy and practice
Kava Management Act (NT)
Tobacco Control Act (NT) and policy and practice

Description: Northern Territory

The Northern Territory Licensing Commission may require a liquor licensee where the licensee is an individual, or at least one of the licensees where the licence is held by a partnership, or the licence nominee where the licence is held by a corporation, to ordinarily reside within the general locality of the premises to which the licence relates.

The holder of a tobacco retail licence may only sell tobacco products from the premises specified in the licence.

A tobacco retail licence in relation to liquor licensed premises may only be granted to the liquor licensee of those premises.

An applicant for a retail licence for kava must ordinarily reside or carry on business in the relevant licence area in the Northern Territory.

24 Sector: Distribution Services

Obligations Concerned: National Treatment

Level of Government: Regional

Source of Measure: *Wine Industry Act 1994 (Qld)*

Description: Queensland

In order to obtain a wine merchant's licence to sell wine, the business conducted by a person under the licence must contribute to the Queensland wine industry in a substantial way. In order to obtain a wine producer's licence to sell wine, a person must be selling wine made from fruit grown by the person on the premises to which the licence relates, or selling wine made by the person on the premises to which the licence relates.

25 Sector: Health Services

Obligations Concerned: National Treatment

Level of Government: Central

Source of Measure: *Commonwealth Serum Laboratories Act 1961 (Cth)*

Description: The votes attached to significant foreign shareholdings¹⁷ may not be counted in respect of the appointment, replacement or removal of more than one-third of the directors of Commonwealth Serum Laboratories (CSL) who hold office at a particular time. The head office, principal facilities used by CSL and any CSL subsidiaries used to produce products derived from human plasma collected from blood or plasma donated by individuals in Australia must remain in Australia. Two-thirds of the directors of the board of CSL and the chairperson of any meeting must be Australian citizens. CSL must not seek incorporation outside of Australia.

¹⁷ For the purposes of this entry, the term “significant foreign shareholding” means a holding of voting shares in CSL in which a foreign person has a relevant interest, if the foreign person has relevant interests in at least five per cent of the voting shares in CSL.

26 Sector: Tourism and Travel-related Services

Obligations
Concerned: National Treatment

Level of Government: Regional

Source of Measure: *Travel Agents Act 1988 (Qld)*

Description: Queensland

In order to obtain a licence to operate as a travel agent, a person must have a business address in Queensland.

27	Sector:	Recreational, Cultural and Sporting Services
	Obligations Concerned:	National Treatment
	Level of Government:	Regional
	Source of Measure:	<i>Nature Conservation Act 1992 (Qld)</i> <i>Nature Conservation (Wildlife Management) Regulation 2006 (Qld)</i> <i>Nature Conservation (Administration) Regulation 2006 (Qld)</i> Nature Conservation (Protected Plants) Conservation Plan 2000 (Qld)
	Description:	<p><u>Queensland</u></p> <p>The Chief Executive of the Queensland Department of Environment and Heritage Protection may grant a wildlife authority,¹⁸ other than a wildlife movement permit, to a corporation only if the corporation has an office in the State.</p> <p>The chief executive may approve a person to be an authorised cultivator or propagator for protected plants only if:</p> <ul style="list-style-type: none"> (a) in the case of a natural person, the person is a resident of the State; or (b) if the person is a corporation, the corporation has premises in the State at which the plants are to be cultivated or propagated. <p>An individual or corporation is only taken to be a “person aggrieved” by a decision, failure to make a decision or conduct under the Act if the individual is an Australian citizen or ordinarily resident in Australia or, if a corporation, established in Australia.</p>

¹⁸ This term is defined in Schedule 7 of the *Nature Conservation (Administration) Regulation 2006 (Qld)*.

28	Sector:	Transport Services
	Obligations Concerned:	National Treatment
	Level of Government:	Central
	Source of Measure:	<i>Competition and Consumer Act 2010 (Cth)</i>
	Description:	<p>Every ocean carrier who provides international liner cargo shipping services to or from Australia must, at all times, be represented by a natural person who is resident in Australia.</p> <p>Only a person¹⁹ affected by a registered conference agreement or by a registered non-conference ocean carrier with substantial market power may apply to the Australian Competition and Consumer Commission to examine whether conference members, and non-conference operators with substantial market power, are hindering other shipping operators from engaging efficiently in the provision of outward liner cargo services to an extent that is reasonable. For greater certainty, matters which are relevant to the determination of ‘reasonable’ include Australia’s national interest and the interests of Australian shippers.</p>

¹⁹ For the purposes of this entry, sections 10.48 and 10.58 of Part X of the *Competition and Consumer Act 2010 (Cth)* list the categories of persons to whom this reservation will apply.

- 29 Sector: Transport Services
- Obligations Concerned: Market Access
National Treatment
- Level of Government: Central
- Source of Measure: *Air Navigation Act 1920* (Cth)
Ministerial Statements
- Description: Total foreign ownership of individual Australian international airlines (other than Qantas) is restricted to a maximum of 49 per cent.
- Furthermore, it is required that:
- (a) at least two-thirds of the board members must be Australian citizens;
 - (b) the chairperson of the board must be an Australian citizen;
 - (c) the airline's head office must be in Australia;
and
 - (d) the airline's operational base must be in Australia.

30	Sector:	Transport Services
	Obligations Concerned:	Market Access National Treatment
	Level of Government:	Central
	Source of Measure:	<i>Qantas Sale Act 1992</i> (Cth)
	Description:	<p>Total foreign ownership of Qantas Airways Ltd is restricted to a maximum of 49 per cent. In addition:</p> <ul style="list-style-type: none"> (a) the head office of Qantas must always be located in Australia; (b) the majority of Qantas' operational facilities must be located in Australia; (c) at all times, at least two-thirds of the directors of Qantas must be Australian citizens; (d) at a meeting of the board of directors of Qantas, the director presiding at the meeting (however described) must be an Australian citizen; and (e) Qantas is prohibited from taking any action to become incorporated outside Australia.

31 Sector: Transport Services

Obligations Concerned: National Treatment

Level of Government: Regional

Source of Measure: *Commercial Passenger (Road Transport) Act (NT)*
Road Transport (Public Passenger Services) Regulations 2002 (ACT)
Taxi Act 1994 (WA)
Transport Coordination Act 1966 (WA)

Description:

Northern Territory

A taxi licence will be cancelled where the holder, being an individual, has not been ordinarily resident in the Northern Territory for more than six months or, being a body corporate, has ceased for more than six months to have its principal place of business in the Northern Territory.

Australian Capital Territory

An application for accreditation to run a public transport service must be made by an Australian citizen or permanent resident of Australia.

Western Australia

To hold a Government Lease taxi plate, the plate holder must be an Australian citizen or a permanent resident.

32	Sector:	Financial Services
	Obligations Concerned:	Market Access National Treatment
	Level of Government:	Central
	Source of Measure:	<i>Banking Act 1959 (Cth)</i> <i>Banking Amendment Regulations 2000 (No. 1) (Cth)</i> <i>Payment Systems (Regulation) Act 1998 (Cth)</i>
	Description:	<p>To undertake banking business in Australia an entity must be a body corporate and authorised by the Australian Prudential Regulation Authority (APRA) 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 foreign ADI is not permitted to accept initial deposits (and other funds) from individuals and non-corporate institutions of less than 250,000 Australian Dollars.</p> <p>A foreign deposit-taking institution that operates a representative office in Australia 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> <p>Foreign banks located overseas may only raise funds in Australia through the issue of debt securities provided those securities are offered/traded in parcels of not less than</p>

500,000 Australian Dollars and the securities and any associated information memoranda clearly state the issuing bank is not authorised under the *Banking Act 1959* (Cth) in Australia.

33 Sector: Financial Services

Obligations Concerned: National Treatment

Level of Government: Central

Source of Measure: *Commonwealth Banks Act 1959* (Cth)

Description: Liabilities of the Commonwealth Bank, previously Commonwealth Government-owned, are covered by transitional guarantee arrangements.

34 Sector: Financial Services

Obligations Concerned: 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: Western Australia

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.

35 Sector: Financial Services

Obligations concerned: National Treatment

Level of Government: Regional

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

Description: Queensland

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

Introductory Notes

1. Section B of the Schedule of Australia sets out, pursuant to Article 8.9 (Schedule of Non-Conforming Measures) of Chapter 8 (Trade in Services) and Article 9.5 (Non-Conforming Measures) of Chapter 9 (Investment), the specific sectors, sub-sectors or activities for which Australia may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

- (a) Article 8.11 (Market Access) of Chapter 8 (Trade in Services);
- (b) Article 8.10 (National Treatment) of Chapter 8 (Trade in Services) or Article 9.3 (National Treatment) of Chapter 9 (Investment);
or
- (c) Article 8.12 (Most-Favoured-Nation Treatment) of Chapter 8 (Trade in Services) or Article 9.4 (Most-Favoured-Nation Treatment) of Chapter 9 (Investment).

Note 1: Commitments on financial services are undertaken subject to the limitations and conditions set forth in Chapter 8 (Trade in Services), Annex 8-B (Financial Services) and Chapter 9 (Investment), these Introductory Notes and the Schedule below.

Note 2: To clarify Australia's commitment with respect to Article 8.11 (Market Access) of Chapter 8 (Trade in Services), enterprises supplying financial services and constituted under the laws of Australia are subject to non-discriminatory limitations on juridical form.²⁰

Note 3: Without prejudice to other means of prudential regulation of cross-border trade in financial services, Australia reserves the right to require the non-discriminatory licensing or registration of cross-border financial service suppliers of China and of financial instruments in accordance with Article 3 (Domestic Regulation) of Annex 8-B (Financial Services).

Note 4: Australia reserves the right to adopt or maintain non-discriminatory limitations concerning admission to the market of new financial services where such measures are required to achieve prudential objectives. Australia may determine the institutional

²⁰ For example, partnerships and sole proprietorships are generally not acceptable juridical forms for authorised depository institutions in Australia. This note is not itself intended to affect, or otherwise limit, a choice by a financial service supplier of the other Party between branches or subsidiaries.

and juridical form through which a new financial service may be supplied and may require authorisation for the supply of the service. Where authorisation to supply a new financial service is required, the authorisation may only be refused for prudential reasons.

2. Each Schedule entry sets out the following elements:

- (a) “Sector” refers to the sector for which the entry is made;
- (b) “Obligations Concerned” specifies the obligation(s) referred to in paragraph 1 that, pursuant to Article 8.9 (Schedule of Non-Conforming Measures) of Chapter 8 (Trade in Services) and Article 9.5 (Non-Conforming Measures) of Chapter 9 (Investment), do not apply to the sectors, sub-sectors or activities listed in the entry;
- (c) “Description” sets out the scope of the sector, sub-sector or activities covered by the entry; and
- (d) “Existing Measures” identifies for transparency purposes, where relevant and practical, existing measures that apply to the sector, sub-sector or activities covered by the entry.

Note 1: In accordance with Article 8.9 (–Schedule of Non-Conforming Measures) of Chapter 8 (Trade in Services) and Article 9.5 (Non-Conforming Measures) of Chapter 9 (Investment), the articles of this Agreement specified in the “Obligations Concerned” element of an entry do not apply to the non-conforming measure identified in the “Description” element of that entry.

Note 2: A reference to Market Access in the “Obligations Concerned” element of an entry specifies Australia’s obligations under Article 8.11 (Market Access) of Chapter 8 (Trade in Services).

Note 3: A reference to National Treatment in the “Obligations Concerned” element of an entry specifies Australia’s obligations under Article 8.10 (National Treatment) of Chapter 8 (Trade in Services) and Article 9.3 (National Treatment) of Chapter 9 (Investment).

Note 4: A reference to Most-Favoured-Nation in the “Obligations Concerned” element of an entry specifies Australia’s obligations under Article 8.12 (Most-Favoured-Nation Treatment) of Chapter 8 (Trade in Services) and Article 9.4 (Most-Favoured-Nation Treatment) of Chapter 9 (Investment).

1	Sector:	All Sectors
	Obligations Concerned:	Market Access
	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, or other movement of natural persons, including entry or temporary stay, subject to the provisions of Chapter 10 (Movement of Natural Persons).
	Existing Measures:	

2	Sector:	All Sectors
	Obligations Concerned:	Market Access National Treatment
	Description:	<p>Australia reserves the right to adopt or maintain any measure according preferences to any Indigenous person or organisation or providing for the favourable treatment of any Indigenous person or organisation in relation to acquisition, establishment or operation of any commercial or industrial undertaking in the service sector.</p> <p>Australia reserves the right to adopt or maintain any measure with respect to investment that accords preferences to any Indigenous person or organisation or providing for the favourable treatment of any Indigenous person or organisation.</p> <p>For the purpose of this reservation, an Indigenous person means a person of the Aboriginal and Torres Strait Islander peoples.</p>
	Existing Measures:	<p>Legislation and ministerial statements at all levels of government including:</p> <p>Australia's foreign investment policy, which includes the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth); <i>Foreign Acquisitions and Takeovers Regulations 1989</i> (Cth); <i>Financial Sector (Shareholdings) Act 1998</i> (Cth); and Ministerial Statements.</p> <p><i>Native Title Act 1993</i> (Cth)</p> <p><i>Aboriginal Land Rights (Northern Territory) Act 1976</i> (Cth)</p> <p><i>Aboriginal Land Rights Act 1983</i> (NSW)</p>

Native Title (New South Wales) Act 1994 (NSW)
Aboriginal Land Act 1991 (Qld)
Torres Strait Islander Land Act 1991 (Qld)
Native Title (South Australia) Act 1994 (SA)
Maralinga Tjarutja Land Rights Act 1984 (SA)
Anangu Pitjantjatjara Yankunytjatjara Land Rights Act
1981 (SA)
Anangu Pitjantjatjara Yankunytjatjara Land Rights
Regulations 2010 (SA)
The statutory bodies that administer the Anangu
Pitjantjatjara Yankunytjatjara lands and the Maralinga
Tjarutja lands
Mining Act 1971 (SA)
Opal Mining Act 1995 (SA)
Aboriginal Lands Act 1995 (Tas)
Traditional Owner Settlement Act 2010 (Vic)

3 Sector: All Sectors

Obligations Concerned: Market Access

Description: Australia reserves the right to adopt or maintain any measure at the regional level of government that is not inconsistent with Australia's Revised Services Offer of 31 May 2005 in the World Trade Organization Doha Development Agenda negotiations (WTO Document - TN/S/O/AUS/Rev.1).

Existing Measures:

4	Sector:	All Sectors
	Obligations Concerned:	Market Access National Treatment
	Description:	Australia reserves the right to adopt or maintain any measure with respect to proposals by ‘foreign persons ²¹ ’ and foreign government investors to invest in Australian urban land ²² (including interests that arise via leases, financing and profit sharing arrangements, and the acquisition of interests in urban land corporations and trusts), other than developed non-residential commercial real estate.
	Existing Measures:	Australia’s foreign investment policy, which includes the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth) (FATA); <i>Foreign Acquisitions and Takeovers Regulations 1989</i> (Cth); <i>Financial Sector (Shareholdings) Act 1998</i> (Cth); and Ministerial Statements. <i>Economic Development Act 2012</i> (Qld) <i>Sustainable Planning Act 2009</i> (Qld) <i>Integrated Resort Development Act 1997</i> (Qld) <i>Mixed Use Development Act 1992</i> (Qld) <i>Sanctuary Cove Resort Act 1995</i> (Qld) <i>Townsville City Council (Douglas Land Development) Act 1993</i> (Qld)

²¹ The term “foreign person” has the meaning set out in the FATA.

²² The term “Australian urban land” has the meaning set out in the FATA.

5	Sector:	All Sectors
	Obligations Concerned:	Market Access National Treatment Most-Favoured-Nation Treatment
	Description:	Australia reserves the right to adopt or maintain any measure that it considers necessary for the protection of its essential security interests with respect to proposals by foreign persons ²³ and foreign government investors to invest in Australia.
	Existing Measures:	Australia's foreign investment policy, which includes the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth); <i>Foreign Acquisitions and Takeovers Regulations 1989</i> (Cth); <i>Financial Sector (Shareholdings) Act 1998</i> (Cth); and Ministerial Statements.

²³ The term "foreign person" has the meaning set out in the FATA.

6	Sector:	All Sectors
	Obligations Concerned:	Market Access National Treatment Most-Favoured-Nation Treatment
	Description:	Australia reserves the right to adopt or maintain any measure to allow the screening of proposals, by foreign persons ²⁴ , to invest 15 million Australian Dollars or more in Australian agricultural land and 53 million Australian Dollars or more in Australian agribusinesses.
	Existing Measures:	Australia's foreign investment policy, which includes the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth); <i>Foreign Acquisitions and Takeovers Regulations 1989</i> (Cth); <i>Financial Sector (Shareholdings) Act 1998</i> (Cth) and Ministerial Statements.

²⁴ The term "foreign person" has the meaning set out in the FATA.

7	Sector:	All Sectors
	Obligations Concerned:	Market Access National Treatment
	Description:	Australia reserves the right to adopt or maintain any measure with respect to: <ul style="list-style-type: none">(a) the devolution to the private sector of services provided in the exercise of governmental authority at the time that the Agreement comes into force; and(b) the privatisation of government owned entities or assets.
	Existing Measures:	

8	Sector:	All Sectors
	Obligations Concerned:	Market Access National Treatment Most-Favoured-Nation Treatment
	Description:	Australia reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services ²⁵ to the extent that they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health, child care, public utilities, public transport and public housing.
	Existing Measures:	

²⁵ For the avoidance of doubt, this includes any measure with respect to: the collection of blood and its components; the distribution of blood and blood-related products, including plasma derived products; plasma fractionation services; and the procurement of blood and blood-related products and services.

9	Sector:	Communication Services and Recreational, Cultural and Sporting Services
	Obligations Concerned:	Market Access National Treatment Most-Favoured-Nation Treatment
	Description:	<p>Australia reserves the right to adopt or maintain any measure with respect to:</p> <ul style="list-style-type: none"> - the creative arts,²⁶ cultural heritage²⁷ and other cultural industries, including audiovisual services, entertainment services and libraries, archives, museums and other cultural services; - broadcasting and audiovisual services, including measures with respect to planning, licensing and spectrum management, and including: <ul style="list-style-type: none"> (a) services offered in Australia; (b) international services originating from Australia.
	Existing Measures:	<i>Broadcasting Services Act 1992</i> (Cth) <i>Radiocommunications Act 1992</i> (Cth) <i>Income Tax Assessment Act 1936</i> (Cth) <i>Income Tax Assessment Act 1997</i> (Cth) <i>Screen Australia Act 2008</i> (Cth) Broadcasting Services (Australian Content) Standard 2005

²⁶ “Creative arts” include: the performing arts – including theatre, dance and music – visual arts and craft, literature, film, television, video, radio, creative on-line content, indigenous traditional practice and contemporary cultural expression, and digital interactive media and hybrid arts work which uses new technologies to transcend discrete artform divisions.

²⁷ “Cultural heritage” includes: ethnological, archaeological, historical, literary, artistic, scientific or technological moveable or built heritage, including the collections which are documented, preserved and exhibited by museums, galleries, libraries, archives and other heritage collecting institutions.

Children's Television Standards 2009
Television Program Standard 23 – Australian Content in
Advertising
Commercial Radio Codes of Practice and Guidelines
Community Broadcasting Codes of Practice
International Co-Production Program

10 Sector: Distribution Services

Obligations Concerned: Market Access

Description: Australia reserves the right to adopt or maintain any measure with respect to wholesale and retail trade services of tobacco products, alcoholic beverages, or firearms.

Existing Measures:

11 Sector: Education Services

Obligations Concerned: Market Access
National Treatment

Description: Australia reserves the right to adopt or maintain any measure with respect to primary education.

Existing Measures:

12 Sector:	Education Services
Obligations Concerned:	National Treatment Most-Favoured-Nation Treatment
Description:	<p>Australia reserves the right to adopt or maintain any measure with respect to:</p> <ul style="list-style-type: none"> (a) the ability of individual education and training institutions to maintain autonomy in admissions policies (including in relation to considerations of equal opportunity for students and recognition of credits and degrees), in setting tuition rates and in the development of curricula or course content; (b) non-discriminatory accreditation and quality assurance procedures for education and training institutions and their programs, including the standards that must be met; (c) government funding, subsidies or grants, such as land grants, preferential tax treatment and other public benefits, provided to education and training institutions; or (d) the need for education and training institutions to comply with non-discriminatory requirements related to the establishment and operation of a facility in a particular jurisdiction.

Existing Measures:

13 Sector:	Gambling and Betting
Obligations Concerned:	Market Access National Treatment
Description:	Australia reserves the right to adopt or maintain any measure with respect to gambling and betting.
Existing Measures:	Legislation and ministerial statements including: <i>Interactive Gambling Act 2001</i> (Cth) <i>Gambling and Racing Control Act 1999</i> (ACT) <i>Unlawful Gambling Act 2009</i> (ACT) <i>Race & Sports Bookmaking Act 2001</i> (ACT) <i>Totalisator Act 2014</i> (ACT) <i>Racing Act 1999</i> (ACT) <i>Casino Control Act 2006</i> (ACT) <i>Gaming Machine Act 2004</i> (ACT) <i>Interactive Gambling Act 1998</i> (ACT) <i>Lotteries Act 1964</i> (ACT) <i>Pool Betting Act 1964</i> (ACT) <i>Casino Control Act 1992</i> (NSW) <i>Gaming Machines Act 2001</i> (NSW) <i>Public Lotteries Act 1996</i> (NSW) <i>Lotteries and Art Unions Act 1901</i> (NSW) <i>Racing Administration Act 1998</i> (NSW) <i>Greyhound Racing Act 2009</i> (NSW) <i>Harness Racing Act 2009</i> (NSW) <i>Thoroughbred Racing Act 1996</i> (NSW) <i>Totalizator Act 1987</i> (NSW) <i>Unlawful Gambling Act 1998</i> (NSW) <i>Gambling Control Act</i> (NT) <i>Gaming Machine Act</i> (NT) <i>Racing and Betting Act</i> (NT) <i>Totaliser Licensing and Regulation Act</i> (NT)

Soccer Football Pools Act (NT)
TAB Queensland Limited Privatisation Act 1999 (Qld)
Casino Control Act 1982 (Qld)
Jupiters Casino Agreement Act 1983 (Qld)
Brisbane Casino Agreement Act 1992 (Qld)
Breakwater Island Casino Agreement Act 1984 (Qld)
Lotteries Act 1997 (Qld)
Cairns Casino Agreement Act 1993 (Qld)
Charitable and Non-Profit Gaming Act 1999 (Qld)
Keno Act 1996 (Qld)
Wagering Act 1998 (Qld)
Gaming Machine Act 1991 (Qld)
Racing Act 2002 (Qld)
Casino Act 1997 (SA)
Lottery and Gaming Act 1936 (SA)
Independent Gambling Authority Act 2001 (SA)
Gaming Machines Act 1992 (SA)
State Lotteries Act 1966 (SA)
Racing (Proprietary Business Licensing) Act 2000 (SA)
Authorised Betting Operations Act 2000 (SA)
TAB (Disposal) Act 2000 (SA)
Gaming Control Act 1993 (Tas)
TT-Line Gaming Act 1993 (Tas)
Gambling Regulation Act 2003 (Vic)
Racing Act 1958 (Vic)
Casino Control Act 1991 (Vic)
Casino (Management Agreement) Act 1993 (Vic)
Casino (Burswood Island) Agreement Act 1985 (WA)
Racing and Wagering Western Australia Act 2003 (WA)
Gaming and Wagering Commission Act 1987 (WA)
Betting Control Act 1954 (WA)
Casino Control Act 1984 (WA)
Lotteries Commission Act 1990 (WA)

14 Sector:	Maritime Transport
Obligations Concerned:	Market Access National Treatment
Description:	Australia reserves the right to adopt or maintain any measure with respect to maritime cabotage services and offshore transport services. ²⁸
Existing Measures:	<i>Customs Act 1901 (Cth)</i> <i>Workplace Relations Act 1996 (Cth)</i> <i>Seafarers' Compensation and Rehabilitation Act 1992 (Cth)</i> <i>Occupational Health and Safety (Maritime Industry) Act 1993 (Cth)</i> <i>Shipping Registration Act 1981 (Cth)</i> <i>Income Tax Assessment Act 1936 (Cth)</i> <i>Coastal Trading (Revitalising Australian Shipping) Act 2012 (Cth)</i> <i>Coastal Trading (Revitalising Australian Shipping)(Consequential Amendments and Transitional Provisions) Act 2012 (Cth)</i> <i>Shipping Reform (Tax Incentive) Act 2012 (Cth)</i>

²⁸ For the purposes of this entry, the term “cabotage” means the transportation of passengers or goods between a port located in Australia and another port located in Australia and traffic originating and terminating in the same port located in Australia. The term “offshore transport” means shipping services involving the transportation of passengers or goods between a port located in Australia and any location associated with or incidental to the exploration or exploitation of natural resources of the continental shelf of Australia, the seabed of the Australian coastal sea and the subsoil of that seabed.

15 Sector: Maritime Transport

Obligations Concerned: National Treatment

Description: Australia reserves the right to adopt or maintain any measure with respect to the registration of vessels in Australia.

Existing Measures: *Shipping Registration Act 1981 (Cth)*

16 Sector:	Transport Services
Obligations Concerned:	Market Access National Treatment
Description:	Australia reserves the right to adopt or maintain any measure with respect to investment in federal leased airports.
Existing Measures:	<i>Airports Act 1996 (Cth)</i> <i>Airports (Ownership-Interests in Shares) Regulations 1996 (Cth)</i> <i>Airports Regulations 1997 (Cth)</i>

17 Sector:	All Sectors
Obligations Concerned:	Most-Favoured-Nation Treatment
Description:	<p>Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to the service suppliers or investors of non-parties under any bilateral or multilateral international agreement in force on, or signed prior to, the date of entry into force of this Agreement.²⁹</p> <p>Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to the service suppliers or investors of non-parties under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving:</p> <ul style="list-style-type: none"> (a) aviation; (b) fisheries; or (c) maritime matters, including salvage.

Existing Measures:

²⁹ For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral or multilateral international agreement. For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to the *Australia New Zealand Closer Economic Relations - Trade Agreement* (ANZCERTA), done at Canberra on 28 March 1983.

18 Sector: Financial Services

Obligations Concerned: National Treatment

Description: Australia reserves the right to adopt or maintain any measure with respect to the guarantee by government of government-owned entities, including guarantees related to the privatisation of such entities, which may conduct financial operations.

Existing Measures:

19 Sector:	Financial Services
Obligations Concerned:	Market Access National Treatment Most-Favoured-Nation Treatment
Description:	<p>Banking and other Financial Services (excluding Insurance and Insurance-related Services):</p> <p>Except as provided in paragraphs 2 and 3 of this entry Australia reserves the right to adopt or maintain any measure with respect to trade in services as defined in subparagraph (x)(i) of Article 8.2 (Definitions) of Chapter 8 (Trade in Services) for banking and other financial services.</p> <p>Australia shall permit, under terms and conditions that accord national treatment, a services supplier of China to undertake the cross-border provision and transfer of financial information and financial data processing as referred to in paragraph 3(a)(xv) of Article 2 (Definitions) of Annex 8-B (Financial Services) and advisory and other auxiliary services, excluding intermediation, relating to banking and other financial services as referred to in paragraph 3(a)(xvi) of Article 2 (Definitions) of Annex 8-B (Financial Services).</p> <p>In relation to the following services Australia shall ensure a services supplier of China, upon obtaining an Australian financial services licence and any other necessary authorisations, or exemptions therefrom, in accordance with prescribed Australian laws and regulations, may undertake:</p> <p style="margin-left: 40px;">(a) securities related transactions on a wholesale basis between and among financial institutions and other entities;</p>

- (b) the following services to a collective investment scheme located in Australia:
 - (i) investment advice; and
 - (ii) portfolio management services, excluding:
 - (A) trustee services; and
 - (B) custodial services and execution services that are not related to managing a collective investment scheme.

Note: For the purposes of this entry, the term “collective investment scheme” means a managed investment scheme as defined under section 9 of the *Corporations Act 2001* (Cth), other than a managed investment scheme operated in contravention of subsection 601ED (5) of the *Corporations Act 2001* (Cth), or an entity that:

- (i) carries on a business of investment in securities, interests in land, or other investments; and
- (ii) in the course of carrying on that business, invests funds subscribed, whether directly or indirectly, after an offer or invitation to the public (within

the meaning of section 82 of the *Corporations Act 2001* (Cth) made on terms that the funds subscribed would be invested.

Existing Measures:

20 Sector: Financial Services

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment

Description: Insurance and Insurance-related Services:

Except as provided in paragraph 2 Australia reserves the right to adopt or maintain any measure with respect to trade in services as defined in subparagraph (x)(i) of Article 8.2 (Definitions) of Chapter 8 (Trade in Services) for insurance and insurance related services.

Australia shall ensure a services supplier of China, under terms and conditions that accord national treatment may provide via cross-border supply mode and whether as a principal, through an intermediary or as an intermediary, the following services:

- (a) insurance of risks relating to:
 - (i) maritime shipping and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods and any liability arising therefrom; and
 - (ii) goods in international transit;
- (b) reinsurance and retrocession and the services auxiliary to insurance as referred to in paragraph 3(a)(iv) of Article 2 (Definitions) of Annex 8-B (Financial Services); and

- (c) insurance intermediation, such as brokerage and agency as referred to in paragraph 3(a)(iii) of Article 2 (Definitions) of Annex 8-B (Financial Services) in relation to the services referred to in subparagraphs (a) and (b).

Existing Measures:

21 Sector: Financial Services

Obligations Concerned: Market Access
National Treatment
Most-Favoured-Nation Treatment

Description: Australia reserves the right to adopt or maintain any measure regarding solicitation in its Territory.

Existing Measures: