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**ANNEX III**

**BRUNEI DARUSSALAM'S RESERVATIONS TO  
CHAPTER 11 (FINANCIAL SERVICES)**

**HEADNOTES**

1. Commitments under the Chapter on 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 (Market Access for Financial Institutions), juridical persons supplying financial services and constituted under the laws of Brunei Darussalam, regulations and guidelines are subject to non-discriminatory limitations on juridical forms.<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 Section A of this Schedule, in accordance with Article 11.10.1 (Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming measures identified in the **Description** element of that entry.
6. 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;
  - (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

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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.

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regarding the requirement and provide due considerations to the views expressed by the Party concerned in this regard; and

- (e) Provide considerable duration for the bank to comply with the requirement.

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**ANNEX III**

**SECTION A**

**A-1**

<b>Sector:</b>	Financial Services
<b>Sub-sector:</b>	Finance Companies
<b>Obligation concerned:</b>	Market Access for Financial Institutions (Article 11.5)
<b>Level of government:</b>	National
<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.

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A-2

<b>Sector:</b>	Financial Services
<b>Sub-sector:</b>	Money-Changing and Remittance Businesses
<b>Obligation concerned:</b>	National Treatment (Article 11.3) Market Access for Financial Institutions (Article 11.5)
<b>Level of government:</b>	National
<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.

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**A-3**

<b>Sector:</b>	Financial services
<b>Sub-sector:</b>	Insurance
<b>Obligation concerned:</b>	Cross-Border Trade (Article 11.6)
<b>Level of government:</b>	National
<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.

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**A-4**

**Sector:** Financial Services

**Sub-sector:** Insurance Intermediaries

**Obligation concerned:** National Treatment (Article 11.3)  
Market Access for Financial Institutions (Article 11.5)

**Level of government:** National

**Measures:** Insurance Order, 2006  
Takaful Order, 2008  
*Companies Act* (Chapter 39)  
*Business Names Act* (Chapter 92)

**Description:** 1. Insurance agents

Only Bruneian citizens and Bruneian permanent residents are allowed to be registered as an insurance agent in Brunei Darussalam.

2. Insurance brokers

Insurance brokers must be established as a company incorporated in Brunei Darussalam.

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**A-5**

**Sector:** Financial Services

**Sub-sector:** Banking

**Obligation concerned:** Cross-Border Trade (Article 11.6)

**Level of government:** National

**Measures:** Banking Order, 2006  
Islamic Banking Order, 2008  
Outsourcing Guidelines

**Description:** Any outsourcing activities by licensed banks in Brunei Darussalam is subject to approval by AMBD with the following conditions:

(i) The outsourced activities are not related to credit assessment, processing, administration or any related core banking activities; and

(ii) The outsourcing activities will not affect financial institutions' human capital and it does not involve any retrenchment of local employees.

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**A-6**

**Sector:** Financial Services

**Sub-sector:** Banking

**Obligation concerned:** National Treatment (Article 11.3)  
Market Access for Financial Institutions (Article 11.5)  
Senior Management and Board of Directors (Article 11.9)

**Level of government:** National

**Measures:** Banking Order, 2006  
Islamic Banking Order, 2008

**Description:** Autoriti Monetari Brunei Darussalam has absolute discretion not to grant a licence to a bank if it is satisfied that:

- (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 AMBD of its supervisory functions in relation to the bank; or
- (b) 50% 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 directions, control or management of the bank are appointed by or on behalf of any such government or agency.



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**A-7**

**Sector:** Financial Services

**Sub-sector:** All Subsectors

**Obligation concerned:** Senior Management and Board of Directors (Article 11.9)

**Level of government:** National

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**ANNEX III**

**SECTION B**

**B-1**

<b>Sector:</b>	Financial Services
<b>Sub-sector:</b>	Capital Market Clearing and Settlement Services
<b>Obligation concerned:</b>	National Treatment (Article 11.3) Most-Favoured-Nation Treatment (Article 11.4) Market Access for Financial Institutions (Article 11.5) Senior Management and Board of Directors (Article 11.9)
<b>Level of government:</b>	National
<b>Measures:</b>	Autoriti Monetari Brunei Darussalam Order, 2010 Securities Markets Order, 2013 Payment and Settlement Systems (Oversight) Order, 2015
<b>Description:</b>	Brunei Darussalam reserves the right to limit the establishment or operation of the following:  (i) Clearing and settlement services;  (ii) Central securities depository;  (iii) Trade repository;  (iv) Trading facilities;  (v) Credit rating agencies;  (vi) Exchanges; or  (vii) Securities and futures market.

For greater certainty, this reservation does not apply to financial institutions participating in, or seeking to participate in, any such exchange or securities market.

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**B-2**

**Sector:** Financial Services

**Sub-sector:** Credit Reporting Services

**Obligation concerned:** National Treatment (Article 11.3)  
Most-Favoured-Nation Treatment (Article 11.4)  
Market Access for Financial Institutions (Article 11.5)

**Level of government:** National

**Measures:** Autoriti Monetari Brunei Darussalam Order, 2010  
Banking Order, 2006  
Islamic Banking Order, 2008

**Description:** Brunei Darussalam reserves the right to adopt or maintain any measure relating to the establishment and operation of credit reporting services.

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**B-3**

**Sector:** Financial Services

**Sub-sector:** Banking

**Obligation concerned:** Market Access for Financial Institutions (Article 11.5)

**Level of government:** National

**Measures:** Banking Order, 2006  
Islamic Banking Order, 2008

**Description:** 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:

- (i) Number of branch locations; and
- (ii) Types of banking business<sup>2</sup> offered.

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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.

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**B-4**

**Sector:** Financial Services

**Sub-sector:** All sector

**Obligation concerned:** National Treatment

**Level of government:** National

**Description:**

(a) Brunei Darussalam reserves the right to provide subsidies or grant advantages not limited to the following:

- (i) Government owned or government controlled entities for legitimate national economic development objectives; and
- (ii) Islamic financial institutions carrying out Islamic banking, takaful/retakaful and Islamic capital markets for the purpose of Islamic finance development

(b) With respect to 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.