

ANNEX III

SCHEDULE OF VIET NAM

HEADNOTES

1. Commitments in these sub-sectors under Chapter 11 (Financial Services) are undertaken subject to the limitations and conditions set forth in these headnotes and in the Schedule below.
2. To clarify Viet Nam's commitments with respect to Article 11.5 (Market Access for Financial Institutions), juridical persons supplying financial services and constituted under the laws, regulations and guidelines of Viet Nam are subject to non-discriminatory limitations on juridical form.¹
3. Article 11.10.1(c) (Non-Conforming Measures) shall not apply to non-conforming measures relating to Article 11.5(b) (Market Access for Financial Institutions).
4. For entries in Section A, all elements of the entry shall be considered in their totality for the purposes of its interpretation. Where there is any inconsistency in relation to the interpretation of an entry, the **Description** element of the entry shall prevail to the extent of the inconsistency.
5. For entries in Section B, where an inconsistency arises in relation to the interpretation of an entry, the **Description** element of the entry shall prevail to the extent of the inconsistency.
6. For greater certainty, limitations on the participation of foreign capital in terms of maximum percentage limits on foreign shareholding or the total value of individual or aggregate foreign investment should not be considered a limitation to Article 11.5 (Market Access for Financial Institutions).

¹ For example, partnerships and sole proprietorships are generally not acceptable juridical forms for depository financial institutions in Viet Nam. This headnote does not affect, or otherwise limit, a choice by a financial institution of the other Party between branches and subsidiaries.

ANNEX III

Section A

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding securities and insurance)
Obligations Concerned:	National Treatment (Article 11.3) Market Access for Financial Institutions (Article 11.5)
Level of Government:	Central
Measures:	<i>Law No.47/2010/QH12 on Credit Institutions 2010</i> <i>Decree No.39/2014/ND-CP of the Government on operation of finance company and financial leasing company</i> <i>Circular No.40/2011/TT-NHNN of the State Bank of Viet Nam on licensing, organisation and operations of commercial banks, branches of foreign banks, representative offices of foreign credit institutions, other foreign institutions engaged in banking</i>
Description:	Foreign credit institutions ² are only permitted to establish commercial presence in Viet Nam in the following forms: <ul style="list-style-type: none">(a) With respect to foreign commercial banks: representative office, branch of foreign commercial bank, commercial joint venture bank with foreign capital contribution not exceeding 50 per cent of chartered capital, joint venture financial leasing company, 100 per cent foreign-invested financial leasing company, joint venture finance company and 100 per cent foreign-invested finance company, and 100 per cent foreign-owned banks.(b) With respect to foreign finance companies:

² “Credit institutions” is defined as in Article 4 of *Law No.47/2010/QH12 on Credit Institution 2010*. For greater certainty, a foreign credit institution does not include branch or an entity that has no independent legal existence of investor.

representative office, joint venture finance company, 100 per cent foreign-invested finance company, joint venture financial leasing company and 100 per cent foreign-invested financial leasing company.

- (c) With respect to foreign financial leasing companies: representative office, joint venture financial leasing company and 100 per cent foreign-invested financial leasing company.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding securities and insurance)
Obligations Concerned:	National Treatment (Article 11.3) Market Access for Financial Institutions (Article 11.5)
Level of Government:	Central
Measures:	<i>Law No.47/2010/QH12 on Credit Institutions 2010;</i> <i>Decree No.01/2014/NĐ-CP of the Government on acquiring shares of Viet Nam’s commercial banks</i>
Description:	<p>Total equity held by foreign institutions and individuals in each Viet Nam’s joint-stock commercial bank may not exceed 30 per cent of the bank’s chartered capital, unless otherwise provided by Viet Nam’s laws or authorised by a Viet Nam’s competent authority.</p> <p>Equity held by a foreign strategic investor³ and its affiliated persons in each Viet Nam’s joint-stock commercial bank may not exceed 20 per cent of the bank’s chartered capital.</p> <p>In special cases to implement the restructuring of weak credit institutions for the sound banking system, the Prime Minister will decide the total shareholding of foreign investors in a restructured weak credit institution that might exceed the set ceiling proportion on a case-by-case basis.</p>

³ “Foreign strategic investor” means a foreign credit institution which has prestige, financial capacity and ability to assist Vietnamese banks in developing banking products and services, raising management capacity and applying modern technologies; and which has strategic interests conformable with Vietnamese banks’ development strategies and meets specific criteria set by Vietnamese banks.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding securities and insurance)
Obligations Concerned:	National Treatment (Article 11.3)
Level of Government:	Central
Measures:	<p><i>Law No.47/2010/QH12 on Credit Institutions 2010</i> <i>Decree no. 39/2014/ND-CP of the Government on operation of finance company and financial leasing company</i> <i>Circular 40/2011/TT-NHNN of the State Bank of Viet Nam on licensing, organisation and operations of commercial banks, branches of foreign banks, representative offices of foreign credit institutions, other foreign institutions engaged in banking</i></p>
Description:	<p>The conditions for the establishment of a branch of a foreign commercial bank in Viet Nam: the parent bank has total assets of more than US\$20 billion at the end of the year prior to application.</p> <p>The conditions for the establishment of a joint venture bank or a 100 per cent foreign-owned bank in Viet Nam: the parent bank has total assets of more than US\$10 billion at the end of the year prior to application.</p> <p>The conditions for the establishment of a 100 per cent foreign-invested finance company or a joint venture finance company, a 100 per cent foreign-invested financial leasing company or a joint-venture financial leasing company in Viet Nam: the foreign credit institution has total assets of more than US\$10 billion at the end of the year prior to application.</p> <p>Only a natural person who has the nationality of Viet Nam can be allowed to be a founding shareholder of joint stock commercial banks.</p>

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding securities and insurance)
Obligations Concerned:	National Treatment (Article 11.3) Market Access for Financial Institutions (Article 11.5)
Level of Government:	Central
Measures:	<i>Law No.47/2010/QH12 on Credit Institutions 2010</i>
Description:	A foreign credit institution or a foreign institution engaged in a banking operation shall only be permitted to establish one representative office in each province or city under the central authority.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding securities and insurance)
Obligations Concerned:	Senior Management and Boards of Directors (Article 11.9)
Level of Government:	Central
Measures:	<i>Law No.47/2010/QH12 on Credit Institutions 2010</i>
Description:	General directors (directors), deputy general directors (deputy directors), chief accountants, directors of branches and directors of subsidiary companies and people assuming equivalent positions must reside in Viet Nam during their term of office whenever they assume the positions in the Board of Directors of a credit institution.

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding securities and insurance)
Obligations Concerned:	National Treatment (Article 11.3) Market Access for Financial Institutions (Article 11.5)
Level of Government:	Central
Measures:	<i>Law No.47/2010/QH12</i> on Credit Institutions 2010 <i>Decree No.141/2006/ND-CP</i> on list of legal capital for credit institutions <i>Decree No.10/2011/ND-CP</i> amending and supplementing some articles of <i>Decree No.141/2006/ND-CP</i> on list of legal capital for credit institutions <i>Circular No.21/2013/TT-NHNN</i> on the operational networks of commercial banks
Description:	A foreign bank branch shall not be permitted to: (i) either contribute capital or purchase shares; (ii) carry out activities that the foreign bank is not allowed to conduct in its home country; and (iii) open a transaction point ⁴ in any form outside its location which is stated in the establishment licence. Prudential ratios of a foreign bank branch in Viet Nam must be calculated based on its regulatory capital, which must be located in Viet Nam.

⁴ “Transaction point” means a location, excluding ATMs, which is set up outside the office of a foreign bank branch in order to conduct transactions with clients.

Sector:	Financial Services
Sub-Sector:	Insurance
Obligations Concerned:	National Treatment (Article 11.3)
Level of Government:	Central
Measures:	<i>Law No.24/2000/QH10</i> on Insurance Business
Description:	Foreign natural persons are not allowed to supply insurance agency services in Viet Nam.

Sector:	Financial Services
Sub-Sector:	Insurance
Obligations Concerned:	Cross-Border Trade (Article 11.6)
Level of Government:	Central
Measures:	<p><i>Law No.61/2010/QH12</i> amending and supplementing some articles of the Law on Insurance Business</p> <p><i>Decree No.123/2011/NĐ-CP</i> detailing the implementation of a number of articles of the Law amending and supplementing some articles of the Law on Insurance Business and amending and supplementing a number of articles of the <i>Decree No. 45/2007/ND-CP</i> detailing the implementation of a number of articles of the Law on Insurance Business</p>
Description:	<p>Foreign insurance company supplying cross border insurance services not covered in Viet Nam’s Annex 11-A (Cross-Border Trade) shall only conduct business via an insurance broker which has the licence to establish and operate in Viet Nam.</p> <p>Foreign insurance broker when supplying cross-border insurance services not covered in Viet Nam’s Annex 11-A (Cross-Border Trade) shall only conduct business for insurance company or branch of foreign non-life insurance company which has licence of establishment and operation in Viet Nam.</p>

Sector:	Financial Services
Sub-Sector:	Securities
Obligations Concerned:	National Treatment (Article 11.3) Market Access for Financial Institutions (Article 11.5)
Level of Government:	Central
Measures:	<i>Law No.70/2006/QH11</i> on Securities <i>Law No.62/2010/QH12</i> amending and supplementing a number of articles of the Law on Securities
Description:	The Viet Nam Securities Depository (VSD) is the only organisation authorised to act as a Central Securities Depository (CSD) which typically supplies services on registration, depository, clearing and settlement of securities and securities transactions.

ANNEX III

Section B

Sector:	Financial Services
Sub-Sector:	Banking and other financial services
Obligations Concerned:	National Treatment (Article 11.3) Most-Favoured-Nation Treatment (Article 11.4) Market Access for Financial Institutions (Article 11.5) Senior Management and Boards of Directors (Article 11.9)
Level of Government:	Central
Description:	Viet Nam reserves the right to adopt or maintain any measure relating to the equitisation of state-owned commercial banks and restructuring process of credit institutions in Viet Nam.
Existing Measures:	<i>Law No.47/2010/QH12 on Credit Institutions 2010</i>

Sector:	Financial Services
Sub-Sector:	All
Obligations Concerned:	National Treatment (Article 11.3) Market Access for Financial Institutions (Article 11.5) Senior Management and Boards of Directors (Article 11.9)
Level of Government:	Central
Description:	Viet Nam may grant advantages or exclusive rights to one or more development financial institutions, co-operative banks, people’s credit funds and microfinance institutions including but not limited to Viet Nam Bank for Social Policies, Viet Nam Development Bank, Co-operative Bank of Viet Nam, Bank for Agriculture and Rural Development of Viet Nam, and Mortgage Refinance Bank.

Sector:	Financial Services
Sub-Sector:	All
Obligations Concerned:	National Treatment (Article 11.3) Most-Favoured-Nation Treatment (Article 11.4) Market Access for Financial Institutions (Article 11.5)
Level of Government:	Central
Description:	Without limiting Viet Nam's obligations under Article 11.7 (New Financial Services), Viet Nam may impose a pilot testing program for a new financial service and in doing so may impose either a cap on the number of financial service suppliers that may participate in a pilot testing programme or restrictions on scope of pilot testing programme.

Sector:	Financial Services
Sub-Sector:	All
Obligations Concerned:	Cross-Border Trade (Article 11.6)
Level of Government:	Central
Description:	To the extent of financial services not committed under Viet Nam’s Annex 11-A (Cross-Border Trade), Viet Nam reserves the right to adopt or maintain any measure with respect to the purchase of financial services by persons located in Viet Nam from financial service suppliers abroad.

Sector:	Financial Services
Sub-Sector:	All
Obligations Concerned:	National Treatment (Article 11.3) Most-Favoured-Nation Treatment (Article 11.4) Market Access for Financial Institutions (Article 11.5) Cross-Border Trade (Article 11.6) Senior Management and Boards of Directors (Article 11.9)
Level of Government:	Central
Description:	Viet Nam reserves the right to adopt or maintain any measure including but not limited to financial support, such as government-supported loans, guarantees and insurance with respect to activities for a public purpose: income security and insurance, social security, social welfare, social development, social housing, poverty reduction, public education, public training, health, childcare, promoting the welfare and employment of ethnic minorities and people living in disadvantaged areas, small and medium enterprises' development, and granting of one-time subsidisation to promote and facilitate the process of equitisation.

Sector: Financial Services

Sub-Sector: Insurance

Obligations Concerned: National Treatment (Article 11.3)

Level of Government: Central

Description: In addition to the general conditions for being granted the establishment and operation licence, financial service suppliers or investors of a Party asking for the permission to establish foreign insurance enterprises, foreign insurance brokerage enterprises and reinsurance enterprises must satisfy a number of additional conditions on minimum years of experience, value of total assets, making profits and no violation of the laws and regulations on insurance business or of other laws of the country where it has its head office.

Existing Measures: *Law No.24/2000/QH10 on Insurance Business*
Decree No.45/2007/NĐ-CP detailing the implementation of some articles of the Law on Insurance Business
Law No.61/2012/QH12 amending and supplementing some articles of the Law on Insurance Business
Decree No.123/2011/NĐ-CP detailing the implementation of a number of articles of the Law amending and supplementing some articles of the Law on Insurance Business and amending and supplementing a number of articles of the Decree No.45/2007/NĐ-CP detailing the implementation of a number of articles of the Law on Insurance Business
Circular No.124/2012/TT-BTC guiding the implementation of a number of articles of the Decree No.45/2007/NĐ-CP detailing the implementation of some articles of the Law on Insurance Business and Decree No.123/2011/NĐ-CP detailing the implementation of a number of articles of the Law amending and supplementing some articles of the Law on Insurance Business

Sector:	Financial Services
Sub-Sector:	Insurance
Obligations Concerned:	Cross-Border Trade (Article 11.6)
Level of Government:	Central
Description:	In addition to the general conditions for supplying reinsurance services, a foreign reinsurance company must satisfy an additional condition on required credit ratings.
Existing Measures:	<i>Law No.61/2010/QH12</i> amending and supplementing some articles of the Law on Insurance Business <i>Circular No.124/2012/TT-BTC</i> guiding the implementation of a number of articles of the <i>Decree No.45/2007/NĐ-CP</i> detailing the implementation of some articles of the Law on Insurance Business and the <i>Decree No.123/2011/NĐ-CP</i> detailing the implementation of a number of articles of the Law amending and supplementing some articles of the Law on Insurance Business

Sector:	Financial Services
Sub-Sector:	Insurance
Obligations Concerned:	Market Access for Financial Institutions (Article 11.5)
Level of Government:	Central
Description:	<p>No foreign insurance company except a foreign non-life insurance company is permitted to open branches in Viet Nam.</p> <p>In order to be granted the licence for the establishment of a non-life insurance branch in Viet Nam, a foreign non-life insurance company must satisfy the conditions under Vietnamese law, including:</p> <ul style="list-style-type: none"> (a) operational and financial capacity and branch management and supervisory capacity in Viet Nam of foreign non-life insurance company; and (b) cooperation between the foreign insurance administrative body of the country where the company head office is located and the Vietnamese insurance administrative body in managing and supervising the branch of foreign non-life insurance company in Viet Nam.
Existing Measures:	<i>Decree No.123/2011/NĐ-CP</i> detailing the implementation of a number of articles of the Law amending and supplementing some articles of the Law on Insurance Business and amending and supplementing a number of articles of the <i>Decree No.45/2007/ND-CP</i> detailing the implementation of a number of articles of the Law on Insurance Business

Sector:	Financial Services
Sub-Sector:	Securities
Obligations Concerned:	Market Access for Financial Institutions (Article 11.5)
Level of Government:	Central
Description:	The operation and services provided by branches of a foreign securities company and a fund management company in Viet Nam are subject to approval of the Government of Viet Nam, including the imposition of conditions for the approval.
Existing Measures:	<i>Law No.70/2006/QH11 on Securities</i> <i>Law No.62/2010/QH12 amending and supplementing a number of articles of the Law on Securities</i> <i>Decree No.58/2012/ND-CP dated 20/7/2012 detailing and guiding the Law on Securities and amendments thereof</i>

Sector:	Financial Services
Sub-Sector:	Securities
Obligations Concerned:	National Treatment (Article 11.3)
Level of Government:	Central
Description:	<p>Foreign participation from above 49 per cent to less than 100 per cent of charter capital of a securities company and a fund management company in Viet Nam is subject to the approval of the Government of Viet Nam, including the imposition of conditions for the approval.</p> <p>This entry will be deemed to be a Section A entry under Article 11.10 (Non-Conforming Measures) in five years from the date of entry into force of this Agreement for Viet Nam.</p>
Existing Measures:	<p><i>Law No.70/2006/QH11</i> on Securities <i>Law No.62/2010/QH12</i> amending and supplementing a number of articles of the Law on Securities Articles 1, 2 and 3 of <i>Decision No.55/2009/QĐ-TTg</i> on percentage of participation of foreign investors in securities market of Viet Nam</p>

Sector:	Financial Services
Sub-Sector:	Securities
Obligations Concerned:	National Treatment (Article 11.3) Market Access for Financial Institutions (Article 11.5)
Level of Government:	Central
Description:	Viet Nam reserves the right to adopt or maintain any measure relating to the establishment, ownership and operation of regulated securities markets and associated infrastructure, including but not limited to Central Securities Depository (including registration, depository, clearing and settlement), Central Counterparty (CCP), Securities Trading Center/Stock and Derivatives Exchanges (including transactions system and infrastructure), Electronic Communication Networks (ECNs) and the designation of a settlement bank. For greater certainty, this reservation does not apply to financial institutions participating in, or seeking to participate in any such regulated markets, or accessing such associated infrastructure, to provide a financial service.
Existing Measures:	

Sector:	Financial Services
Sub-Sector:	Securities
Obligations Concerned:	Most-Favoured-Nation Treatment (Article 11.4)
Level of Government:	Central
Description:	Viet Nam reserves the right to provide differential treatment to a Foreign Central Securities Depository (CSD) with respect to its membership in or interactions with the Viet Nam Securities Depository (VSD), including the designation of settlement bank, according to agreement between the CSD and VSD.
Existing Measures:	