LIST B

EXPLANATORY NOTES

1. This List sets out, pursuant to Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), the specific sectors or activities for which Brunei Darussalam may maintain existing or adopt new or more restrictive measures that do not conform with obligations imposed by:

   (a) Article 8.4 (National Treatment) or Article 10.3 (National Treatment);

   (b) Article 8.5 (Market Access);

   (c) Article 8.6 (Most-Favoured-Nation Treatment) or Article 10.4 (Most-Favoured-Nation Treatment);

   (d) Article 8.11 (Local Presence);

   (e) Article 10.6 (Prohibition of Performance Requirements); or

   (f) Article 10.7 (Senior Management and Board of Directors).

2. Each entry in this List sets out the following elements:

   (a) **Sector** refers to the sector for which the entry is made;

   (b) **Subsector** refers to the specific subsector for which the entry is made;

   (c) **Obligations Concerned** specifies the obligation referred to in paragraph 1 that, pursuant to Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), do not apply to the sectors, subsectors, or activities listed in the entry;

   (d) **Description** sets out the scope of the sectors, subsectors, or activities covered by the entry; and

   (e) **Existing Measures**, where specified, identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, subsectors, or activities covered by the entry.

3. In accordance with Article 8.8 (Schedules of Non-Conforming Measures) and Article 10.8 (Reservations and Non-Conforming Measures), the Articles specified in the Obligations Concerned element of an entry do not apply to the sectors, subsectors, and activities identified in the Description element of that entry.

4. Commitments under Chapter 8 (Trade in Services) with respect to financial services are undertaken subject to the limitations and conditions set forth in these explanatory notes and the List herein.

5. For greater certainty, Brunei Darussalam's commitment with respect to Article 8.5 (Market Access), juridical persons supplying financial services and constituted under the laws, regulations, and guidelines of Brunei Darussalam are subject to non-discriminatory limitations on juridical forms.[3]

6. 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.

7. Brunei Darussalam reserves the right to require a foreign bank branch that is systemically important to be a locally incorporated bank in Brunei Darussalam subject to the following prerequisites:

   (a) such measure is imposed in a reasonable, objective, and impartial manner;

   (b) Brunei Darussalam shall take in due consideration the quality of home regulation and supervision over the bank, degree of protection accorded to depositors in the home country with respect to depositors in Brunei Darussalam, and the amount of assets held in Brunei Darussalam;

   (c) prior to the imposition of the requirement, the bank and the Party where the bank originates from shall be notified at least six months in advance of Brunei Darussalam's intention to locally incorporate the bank;

   (d) Brunei Darussalam shall engage the Party concerned in consultations regarding the requirement and provide due 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.

[3] For example, partnerships and sole proprietorships are generally not acceptable juridical forms for depository financial institutions in Brunei Darussalam. This explanatory note is not in itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.