

Safeguard Framework for Financial Services Liberalisation under ASEAN Framework Agreement on Services

Guiding Principles for Listing Measures Affecting the Supply of Financial Services

- The list of measures affecting the supply of financial services are classified as follows:
 - (i) **Market Access and National Treatment Measures**
 - (ii) **Laws and National Policies, including Prudential and Foreign Exchange Measures**
- [The Safeguard Framework will only be applied to a Member State's commitments starting from the Fifth Package of Commitments onwards.](#)
- These safeguarded measures are to be listed on a best endeavour and non-exhaustive basis, and aligned to the legal texts of ASEAN's agreements. The Safeguard Framework is a non-legally binding document that aims to promote greater understanding of a Member State's financial services regime in respect of sectors committed for liberalisation under the ASEAN Framework Agreement on Services (AFAS).
- Member States maintain the flexibility to amend their list of measures in relation to the commitments made, when necessary. Updates are to be reflected and notified through the ASEAN Secretariat within one year of amendment.
- Member States shall adopt the World Trade Organisation's Guidelines for the Scheduling of Specific Commitments under the General Agreement on Trade in Services (document S/L/92, dated 28 March 2001) in listing the measures affecting 'market access' and 'national treatment' in the sectors committed for liberalisation under AFAS.
- Member States shall, to the best extent possible, indicate all measures that are to be maintained in relation to the commitments made under the AFAS Packages of Financial Services Commitments. However, the listing of these measures does not affect the right of ASEAN Member States to adopt prudential and balance of payment measures as accorded by the relevant Articles affecting prudential and balance of payment safeguard measures as provided in the ASEAN legal texts.

Sector: Banking, including Investment Banking

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sub-sectors	Measures to be Safeguarded	
	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
1) Acceptance of deposits and other repayable funds from the public	<p>Market Access</p> <p>1) Unbound</p> <p>2) Unbound</p> <p>3) Subject to approval from the AMBD and relevant existing domestic law</p> <p>4) Unbound except as indicated in the horizontal section</p>	<p>Market Access</p> <p>1) Market access is permitted in accordance with Brunei's law and regulations relating to deposit taking companies.</p> <p>2) None</p> <p>3) Equity participation, both domestic and foreign, in these institutions, is restricted to the specified limits in the law.</p> <ul style="list-style-type: none"> ➤ Foreign government ownership is also restricted in accordance with the law. ➤ For companies registered in Brunei Darussalam, one of the two directors or where there are more than two directors, at least two of them shall be ordinarily resident in Brunei Darussalam and the director of a company must be 18 years old or above. ➤ Any banks licensed under the International Banking Order, 2000 are not permitted to provide banking services to Brunei residents. ➤ No banking business shall be carried on in Brunei Darussalam except by a company which is in possession of a licence granted under the Banking Order, 2006, Islamic Banking Order, 2008 and the International Banking Order, 2000. ➤ Prudential regulations are applicable to the 'Fit and Proper' assessment of Bank and finance company owners and directors and are subject to the prior approval of the Autoriti Monetari Brunei Darussalam <p>4) Entry is permitted in accordance with Brunei Darussalam's laws and regulation. Entry is permitted up</p>

Sub-sectors	Measures to be Safeguarded	
	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
	<p>National Treatment</p> <p>1) Unbound</p> <p>2) Unbound</p> <p>3) Subject to approval from the AMBD and relevant existing domestic law</p> <p>4) Unbound except as indicated in the horizontal section</p>	<p>to two years and subject to renewal.</p> <p>No measures for National Treatment No measures for Foreign Exchange Administration</p>
<p>(2) Provision and transfer of financial information, financial data processing and related software by providers of other financial services. (8131)</p>	<p>Market Access</p> <p>1) Unbound</p> <p>2) Unbound</p> <p>3) AMBD approval is required</p> <p>4) Unbound</p> <p>National Treatment</p> <p>1) Unbound</p> <p>2) Unbound</p>	<p>Market Access</p> <p>1) Subject to disclosure requirements under section 58, Banking Order, 2006; section 58, Islamic Banking Order, 2008; and sections 18 and 19, International Banking Order, 2000.</p> <p>2) Subject to disclosure requirements under section 58, Banking Order, 2006; section 58, Islamic Banking Order, 2008; and sections 18 and 19, International Banking Order, 2000.</p> <p>3) Providers of these services shall be subjected to approval and authorisation of the Autoriti Monetari Brunei Darussalam and relevant authorities.</p> <p>4) Entry is permitted in accordance with Brunei Darussalam's laws and regulation. Entry is permitted up to two years and subject to renewal.</p> <p>No measures on National Treatment No measures on Foreign Exchange Administration</p>

Sub-sectors	Measures to be Safeguarded	
	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
	3) AMBD approval is required 4) Unbound	
(3) Advisory and other auxiliary financial services, including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy	<p>Market Access</p> 1) Unbound 2) None 3) AMBD approval is required and subject to existing domestic laws 4) Presence of natural person is allowed temporarily if there is a commercial presence and subject to AMBD approval	<p>Market Access</p> 1) For credit reference, banks must use the Credit Bureau recognised by the Autoriti Monetari Brunei Darussalam. 2) None 3) Provision of advisory and auxiliary financial services may require approval from Autoriti Monetari Brunei Darussalam <ul style="list-style-type: none"> • For companies registered in Brunei Darussalam, one of the two directors or where there are more than two directors, at least two of them shall be ordinarily resident in Brunei Darussalam and the director of a company must be 18 years old or above. • Any banks licensed under the International Banking Order, 2000 are not permitted to provide banking services to Brunei residents. 4) Entry is permitted in accordance with Brunei Darussalam's laws and regulation. Entry is permitted up to two years and subject to renewal.
	<p>National Treatment</p> 1) Unbound 2) None 3) AMBD approval is required and subject to existing domestic laws 4) Presence of natural person is allowed temporarily if there is a commercial presence and subject to	<p>No measures on National Treatment No measures on Foreign Exchange Administration</p>

Sub-sectors	Measures to be Safeguarded	
	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
	AMBD approval	

Sector: Insurance

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sub-sectors	Measures to be Safeguarded	
	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
(1) Direct insurance (life) including annuity, disability income, accident and health insurance services (8121)	<p>Market Access</p> <p>1) Unbound</p> <p>2) None</p> <p>3) Commercial presence is permitted only through insurance companies that are registered in Brunei Darussalam</p> <p>4) Unbound except as indicated under horizontal measures</p>	<p>Market Access</p> <p>1) None</p> <p>2) None</p> <p>3) For commercial presence:</p> <ul style="list-style-type: none"> ➤ Insurers must be established as a locally incorporated company or branch of foreign company and must be registered under Insurance Order, 2006 or Takaful Order, 2008. ➤ Brunei Darussalam prohibits the establishment of composite businesses. An insurer is only allowed to hold either a life or general licence. ➤ Brunei Darussalam prohibits the use of Islamic windows. Only a licensed takaful operator may offer takaful business. ➤ The prudential requirements before registration include: <ul style="list-style-type: none"> (a) Minimum capital of BND 8 million; (b) Maintains surplus of assets over liabilities of not less than 20%; (c) Maintains a statutory deposit with the Authority; (d) Member of an association of insurers /takaful approved by the Authority; (e) Establish a Syariah Advisory Board for takaful operators. (f) An insurer requires the approval of the Authority in writing, in order to carry out annuity insurance business or

Sub-sectors	Measures to be Safeguarded	
	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
	<p>National Treatment</p> <p>1) Unbound</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound except as indicated under horizontal measures</p>	<p>investment-linked life insurance.</p> <p>4) None</p> <p>No measures on National Treatment</p> <p>No measures on Foreign Exchange Administration</p> <p>Other Measures</p> <p>➤ Applicability of legislation:</p> <p>a) Insurance Order, 2006 and Insurance Regulations, 2006 for conventional insurance business and intermediaries</p> <p>b) Takaful Order, 2008 and Takaful Regulations, 2008 for takaful business and intermediaries.</p> <p>a) International Insurance and Takaful Order, 2002 for international insurance and takaful business. Any companies licensed under International Insurance and Takaful Order, 2002 are not permitted to provide insurance services to Brunei residents.</p> <p>➤ For companies registered in Brunei Darussalam, one of the two directors or where there are more than two directors at least two of them shall be ordinarily resident in Brunei Darussalam and the director of a company must be 18 years old or above</p>
(2) Direct insurance (non-life) including disability income, accident and health insurance and contracts of fidelity bonds, performance body or similar contracts of guarantee (8129)	<p>Market Access</p> <p>1) Unbound</p> <p>2) Compulsory insurance of Motor Third Party Liability and Workmen's Compensation can be purchased only from insurance companies established in Brunei</p> <p>3) Commercial presence is permitted only through insurance companies that are registered in Brunei Darussalam</p> <p>4) Unbound except as indicated under horizontal</p>	<p>Prudential Measures</p> <p>1) None</p> <p>2) Workmen Compensation Act, Chapter 74 and Motor Vehicles (Third Party Risks) Act, Chapter 90 provides that compulsory insurance must be bought from insurers and takaful operators licensed by Autoriti Monetari Brunei Darussalam (AMBD).</p> <p>3) For commercial presence:</p> <p>➤ Insurers must be established as a locally incorporated company or branch of foreign company and must be</p>

Sub-sectors	Measures to be Safeguarded	
	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
	<p>measures</p> <p>National Treatment</p> <p>1) None 2) None 3) None 4) Unbound except as indicated under horizontal measures</p>	<p>registered under Insurance Order, 2006 or Takaful Order, 2008.</p> <ul style="list-style-type: none"> ➤ Brunei Darussalam prohibits the establishment of composite businesses. An insurer is only allowed to hold either a life or general licence. ➤ Brunei Darussalam prohibits the use of Islamic windows. Only a licensed takaful operator may offer takaful business. ➤ The prudential requirements before registration include: <ul style="list-style-type: none"> a) Minimum capital of BND 8 million; b) Maintains surplus of assets over liabilities of not less than 20%; c) Maintains a statutory deposit with the Authority; d) Member of an association of insurers /takaful approved by the Authority; e) Establish a Syariah Advisory Board for takaful operators. f) An insurer requires the approval of the Authority in writing, in order to carry out annuity insurance business or investment-linked life insurance. <p>4) None</p> <p>No measures on National Treatment No measures on Foreign Exchange Administration</p> <p>Other Measures</p> <ul style="list-style-type: none"> ➤ Applicability of legislation: <ul style="list-style-type: none"> a) Insurance Order, 2006 and Insurance Regulations, 2006 for conventional insurance business and intermediaries. b) Takaful Order, 2008 and Takaful Regulations, 2008 for takaful business and intermediaries. c) International Insurance and Takaful Order, 2002 for international insurance and takaful business. Any companies licensed under International Insurance and Takaful Order, 2002 are not permitted to provide

Sub-sectors	Measures to be Safeguarded	
	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
		<p>insurance services to Brunei residents.</p> <p>➤ For companies registered in Brunei Darussalam, one of the two directors or where there are more than two directors at least two of them shall be ordinarily resident in Brunei Darussalam and the director of a company must be 18 years old or above.</p>
(3) Reinsurance and Retrocession (life and non-life)	<p>Market Access</p> <p>1) Unbound</p> <p>2) Unbound</p> <p>3) Unbound</p> <p>4) Unbound except as indicated under horizontal measures</p> <p>National Treatment</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound except as indicated under horizontal measures</p>	<p>Prudential requirements</p> <p>1) Cross-border supply of these services is allowed provided that the reinsurers are of good reputation and possess credible external credit rating.</p> <p>2) None</p> <p>3) Reinsurance and retrocession does not require commercial presence. However, to be established in Brunei Darussalam, a reinsurer or retakaful operator would require a licence approval from AMBD .</p> <p>4) Entry is permitted in accordance with Brunei Darussalam's laws and regulation. Entry is permitted up to two years and subject to renewal.</p> <p>No measures on National Treatment</p> <p>No measures on Foreign Exchange Administration</p> <p>Other Measures</p> <p>➤ Applicability of legislation:</p> <p>a) Insurance Order, 2006 and Insurance Regulations, 2006 for conventional insurance business and intermediaries.</p> <p>b) Takaful Order, 2008 and Takaful Regulations, 2008 for takaful business and intermediaries.</p> <p>c) International Insurance and Takaful Order, 2002 for international insurance and takaful business. Any companies licensed under International Insurance and</p>

Sub-sectors	Measures to be Safeguarded	
	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
		<p>Takaful Order, 2002 are not permitted to provide insurance services to Brunei residents.</p> <p>➤ For companies registered in Brunei Darussalam, one of the two directors or where there are more than two directors at least two of them shall be ordinarily resident in Brunei Darussalam and the director of a company must be 18 years old or above.</p>
(d) Insurance and intermediation comprising broking and agency services (8140)	<p>Market Access</p> <p>1) Unbound</p> <p>2) Insurance intermediation is not allowed to act for unregistered insurers</p> <p>3) (i) Broking for direct insurance of Bruneian risks requires approval from the Autoriti Monetari Brunei Darussalam (AMBD) . (ii) Broker, underwriting and insurance managers require approval</p> <p>4) Unbound except as indicated under horizontal measures</p>	<p>Market Access</p> <p>1) Cross border supply of insurance intermediation is only applicable for specialised risks that cannot be insured by the licensed insurers and takaful operators in Brunei Darussalam.</p> <p>2) Licensed insurance intermediaries in Brunei Darussalam cannot act on behalf of insurers or takaful operators from outside Brunei Darussalam.</p> <p>3) <u>Commercial presence of brokers:</u> ➤ Brokers may be established as a locally incorporated company or branch of a foreign company.</p> <p><u>Commercial presence of agents:</u> ➤ Life insurance agents and general insurance agents must be licensed by AMBD under the Insurance Order, 2006 and/or Takaful Order, 2008. ➤ General insurance agents may represent up to three licensed general insurers and/or general takaful operators in Brunei Darussalam. ➤ Life insurance agents can only represent one licensed life insurer or family takaful operator.</p> <p>4) Entry is permitted in accordance with Brunei Darussalam's laws and regulation. Entry is permitted up to two years and subject to renewal.</p>

Sub-sectors	Measures to be Safeguarded	
	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
	<p>National Treatment</p> <p>1) Unbound</p> <p>2) None</p> <p>3) Unbound</p> <p>4) Unbound except as indicated under horizontal measures</p>	<p>No measures on National Treatment</p> <p>No measures on Foreign Exchange Administration</p> <p>Other measures</p> <ul style="list-style-type: none"> ➤ Applicability of legislation: <ul style="list-style-type: none"> a) Insurance Order, 2006 and Insurance Regulations, 2006 for conventional insurance business and intermediaries. b) Takaful Order, 2008 and Takaful Regulations, 2008 for takaful business and intermediaries. c) International Insurance and Takaful Order, 2002 for international insurance and takaful business. Any companies licensed under International Insurance and Takaful Order, 2002 are not permitted to provide insurance services to Brunei residents. ➤ For companies registered in Brunei Darussalam, one of the two directors or where there are more than two directors at least two of them shall be ordinarily resident in Brunei Darussalam and the director of a company must be 18 years old or above ➤ Licences for offshore insurance broking and agency require approval from AMBD. ➤ Licences for investment advisory business require approval from AMBD. ➤ Cross-shareholdings are not permitted unless approved in writing by AMBD i.e. licensed insurance companies are not permitted to hold shares in insurance broking and agency services and other insurance companies; and insurance broking/agent companies are not permitted to hold shares in any other insurance broking, agency services and insurance companies.
(5) Services auxiliary to	<p>Market Access</p> <p>1) None</p>	<p>Market Access</p> <p>1) None</p>

Sub-sectors	Measures to be Safeguarded	
	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
insurance, as follows:	2) None	2) None
(a) Consultancy (excludes insurance agency services to insurance industry)	3) None 4) Unbound except as indicated under horizontal measures	3) None 4) Entry is permitted in accordance with Brunei Darussalam's laws and regulations. Entry is permitted up to two years and subject to renewal. ➤ For actuarial risk assessment, actuaries appointed by insurers must be approved by AMBD based on the requirements under section 32 of Insurance Order, 2006; section 33 of Takaful Order, 2008 and section 20 of International Insurance and Takaful Order, 2002.
(b) Actuarial risk assessment (excluding statutory actuarial roles)	National Treatment 1) None	Measures on National Treatment Measures on Foreign Exchange Administration
(c) Risk management	2) None	Other measures ➤ Any companies licensed under International Insurance and Takaful Order, 2002 are not permitted to provide insurance services to Brunei residents ➤ For companies registered in Brunei Darussalam, one of the two directors or where there are more than two directors at least two of them shall be ordinarily resident in Brunei Darussalam and the director of a company must be 18 years old or above
(d) Maritime loss Adjusting	3) None 4) Unbound except as indicated under horizontal measures	
