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ANNEX III

**VIET NAM'S RESERVATIONS TO
CHAPTER 11 (FINANCIAL SERVICES)**

INTRODUCTORY NOTE

1. The Schedule of Viet Nam to this Annex sets out:
 - (a) headnotes that limit or clarify the commitments of a Party with respect to the obligations described in subparagraphs 1(b) and 1(c);
 - (b) in Section A, pursuant to Article 11.10.1 (Non-Conforming Measures), Vietnam's existing measures that are not subject to some or all of the obligations imposed by:
 - (i) Article 11.3 (National Treatment);
 - (ii) Article 11.4 (Most-Favoured-Nation Treatment);
 - (iii) Article 11.5 (Market Access for Financial Institutions);
 - (iv) Article 11.6 (Cross-Border Trade); or
 - (v) Article 11.9 (Senior Management and Boards of Directors); and
 - (c) in Section B, pursuant to Article 11.10.2 (Non-Conforming Measures), the specific sectors, sub-sectors or activities for which Vietnam may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:
 - (i) Article 11.3 (National Treatment);
 - (ii) Article 11.4 (Most-Favoured-Nation Treatment);
 - (iii) Article 11.5 (Market Access for Financial Institutions);
 - (iv) Article 11.6 (Cross-Border Trade); or
 - (v) Article 11.9 (Senior Management and Boards of Directors).

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2. Each Schedule entry in Section A as described in subparagraph 1(b) sets out the following elements:

- (a) **Sector** refers to the sector for which the entry is made;
- (b) **Sub-Sector**, where referenced, refers to the specific subsector for which the entry is made;
- (c) **Obligations Concerned** specifies the obligation(s) referred to in subparagraph 1(b) that, pursuant to Article 11.10.1(a) (Non-Conforming Measures), do not apply to sectors, subsectors or activities listed in the entry;
- (d) **Level of Government** indicates the level of government maintaining the listed measure(s);
- (e) **Measures** identifies the laws, regulations or other measures for which the entry is made. A measure cited in the **Measures** 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; and
- (f) **Description** sets out the non-conforming aspects of the measure for which the entry is made.

3. Each entry in Section B sets out the following elements:

- (a) **Sector** refers to the sector for which the entry is made;
- (b) **Sub-Sector**, where referenced, refers to the specific subsector for which the entry is made;
- (c) **Obligations Concerned** specifies the obligation(s) referred to in subparagraph 1(c) that, pursuant to Article 11.10.2 (Non-Conforming Measures), do not apply to the sectors, subsectors or activities listed in the entry;
- (d) **Level of Government** indicates the level of government maintaining the listed measure(s); and

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- (e) **Description** sets out the scope and/or nature of the sectors, subsectors or activities covered by the entry to which the reservation applies; and
- (f) **Measures** identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, subsectors or activities covered by the entry.

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. Parties recognise that measures falling under exceptions applicable to this chapter, such as those in Article 11.11 (Exceptions), need not be scheduled. Nevertheless, some Parties have listed measures that may fall within applicable exceptions. For greater certainty, the listing of a measure in a Schedule to Annex III by a Party does not affect the determination of whether a measure adopted or maintained by that Party or any other Party for prudential reasons may qualify as an exception under Article 11.11 (Exceptions). In addition, notwithstanding the listing of a measure by a Party in its Annex III:

- (a) that Party may maintain that measure or adopt or maintain a similar measure; or
- (b) any other Party may adopt or maintain that measure or a similar measure,

that qualifies as an exception under Article 11.11 (Exceptions).

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HEADNOTES

1. Commitments in these sub-sectors under the Agreement 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 forms¹.
3. Article 11.10(1)(c) (Non-Conforming Measures) shall not apply to non-conforming measures relating to paragraph (b) of Article 11.5 (Market Access for Financial Institutions).
4. 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 the Viet Nam. This headnote does not affect, or otherwise limit, a choice by a financial institution of the other Party between branches and subsidiaries.

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ANNEX III

SECTION A

A-1

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)
Measures:	Law no. 47/2010/QH12 on Credit Institutions 2010; Decree no. 39/2014/ND-CP of the Government on operation of finance company and financial leasing company; Circular 40/2011/TT-NHNN of the State Bank of Vietnam on licensing, organisation and operations of commercial banks, branches of foreign banks, representative offices of foreign credit institutions, other foreign institutions engaged in banking.
Description:	Foreign credit institutions ² are only permitted to establish commercial presence in Vietnam in the following forms: (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% of chartered capital, joint venture financial leasing company, 100% foreign-invested financial leasing company, joint venture finance company and 100% foreign-invested finance company, and 100% foreign-owned banks. (b) With respect to foreign finance companies: representative

² “Credit institutions” is defined as in Article 4 of *Law 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.

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office, joint venture finance company, 100% foreign-invested finance company, joint venture financial leasing company and 100% foreign-invested financial leasing company.

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

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A-2

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)
Measures:	Law no. 47/2010/QH12 on Credit Institutions 2010; Decree no. 01/2014/NĐ-CP of the Government on acquiring shares of Viet Nam's commercial banks
Description:	Total equity held by foreign institutions and individuals in each Viet Nam's joint-stock commercial bank may not exceed 30% of the bank's chartered capital, unless otherwise provided by Viet Nam's laws or authorised by a Viet Nam's competent authority. Equity held by a foreign strategic investor ³ and its affiliated persons in each Viet Nam's joint-stock commercial bank may not exceed 20% of the bank's chartered capital, 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.

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.

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A-3

Sector:	Financial Services
Sub-sector:	Banking and Other Financial Services (Excluding Securities and Insurance)
Obligations Concerned:	National Treatment (Article 11.3)
Measures:	Law no. 47/2010/QH12 on Credit Institutions 2010; Decree no. 39/2014/ND-CP of the Government on operation of finance company and financial leasing company; Circular 40/2011/TT-NHNN of the State Bank of Viet Nam on licensing, organization and operations of commercial banks, branches of foreign banks, representative offices of foreign credit institutions, other foreign institutions engaged in banking
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% foreign-owned bank: 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% foreign-invested finance company or a joint venture finance company, a 100% foreign-invested financial leasing company or a joint-venture financial leasing company: 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 persons having nationality of Viet Nam can be allowed to be founding shareholders of joint stock commercial banks.</p>

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A-4

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)
Measures:	Law no. 47/2010/QH12 on Credit Institutions 2010;
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 central authority.

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A-5

Sector:	Financial Services
Sub-sector:	Banking and Other Financial Services (Excluding Securities and Insurance)
Obligations Concerned:	Senior Management and Board of Directors (Article 11.9)
Measures:	Law no. 47/2010/QH12 on Credit Institutions 2010
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.

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A-6

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)
Measures:	Law no. 47/2010/QH12 on Credit Institutions 2010 Decree no. 141/2006/ND-CP on list of legal capital for credit institutions Decree No. 10/2011/ND-CP on the amendment and supplement to some articles of Decree no. 141/2006/ND-CP on list of legal capital for credit institutions Circular 21/2013/TT-NHNN 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; (iii) open a transaction point ⁴ outside its location which is stated in the License in any form; Prudential ratios of 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.

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A-7

Sector: Financial Services

Sub-sector: Insurance

Obligations Concerned: National Treatment (Article 11.3)

Measures: Law on Insurance Business No.24/2000/QH10

Description: Foreign natural persons are not allowed to supply insurance agency services in Viet Nam.

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A-8

Sector:	Financial Services
Sub-sector:	Insurance
Obligations Concerned:	Cross border Trade (Article 11.6)
Measures:	The Law amending and supplementing some articles of the Insurance Business Law No.61/2010/QH12 Decree 123/2011/NĐ-CP
Description:	Foreign insurance company supplying cross border insurance services not covered in Viet Nam's CBT Annex shall only conduct business via an insurance broker which has the license to establish and operate in Viet Nam. Foreign insurance broker when supplying cross-border insurance services not covered in Viet Nam's CBT Annex shall only conduct business for insurance company or branch of foreign non-life insurance company which has license of establishment and operation in Viet Nam.

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A-9

Sector:	Financial Services
Sub-sector:	Securities
Obligations Concerned:	National Treatment (Article 11.3) Market Access for Financial Institutions (Article 11.5)
Measure:	Securities Law No.70/2006/QH11 and Amended Law on Securities No.62/2010/QH12.
Description:	The Viet Nam Securities Depository (VSD) is the only organization authorised to act as a Central Securities Depository (CSD) which typically supply services on registration, depository, clearing and settlement of securities and securities transactions.

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ANNEX III

SECTION B

B-1

Sector:	Financial Services
Sub-sector:	Banking and other financial services
Obligations Concerned:	National Treatment (Article 11.3) Most Favoured Nations (Article 11.4) Market Access for Financial Institutions (Article 11.5) Senior Management and Board of Directors (Article 11.9)
Source of measures:	Law no. 47/2010/QH12 on Credit Institutions 2010
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.

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B-2

Sector:	Financial Services
Sub-sector:	All
Obligations Concerned:	National Treatment (Article 11.3) Market Access for Financial Institutions (Article 11.5) Senior Management and Board of Directors (Article 11.9)
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, Mortgage Refinance Bank.

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B-3

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)

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 providers that may participate in a pilot testing program or restrictions on scope of pilot testing program.

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B-4

Sector: Financial Services

Sub-sector: All

**Obligations
Concerned:** Cross-Border Trade (Article 11.6)

Description: To the extent of financial services not committed under CBT Annex of Viet Nam, 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.

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B-5

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 Board of Directors (Article 11.9)

Description: Viet Nam reserves the right to adopt or maintain any measures 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, and childcare, promoting the welfare and employment of ethnic minorities and people living in disadvantages areas, small and medium enterprises' development, granting of one-time subsidisation to promote and facilitate the process of equitisation.

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B-6

Sector: Financial Services

Sub-sector: Insurance

Obligations Concerned: National Treatment (Article 11.3)

Measures: Law on Insurance Business No.24/2000/QH10;

Decree 45/2007/NĐ-CP.

Law amending and supplementing some articles of the Insurance Business Law No. 61/2012/QH12

Decree 123/2011/NĐ-CP

Circular 124/2012/TT-BTC

Description: In addition to the general conditions for being granted the establishment and operation license, financial services 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 a 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

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B-7

Sector: Financial Services

Sub-sector: Insurance

Obligations Concerned: Cross-Border Trade (Article 11.6)

Measures: Law No.61/2010/QH12 amending and supplementing a number of articles of Insurance Business Law

Circular 124/2012/TT-BTC

Description: In addition to the general conditions for supplying reinsurance services, a foreign reinsurance company must satisfy an additional condition on required credit ratings.

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B-8

Sector: Financial Services

Sub-sector: Insurance

Obligations Concerned: Market Access for Financial Institutions (Article 11.5)

Measures: Decree 123/2011/NĐ-CP

Description: No foreign insurance company except foreign non-life insurance one is permitted to open branches in Viet Nam.

In order to be granted the license for establishment of non-life insurance branch in Viet Nam, a foreign non-life insurance company must satisfy the conditions under Vietnamese law, including:

- (a) Operational and financial capacity and branch management and supervisory capacity in Viet Nam of foreign non-life insurance company.
- (b) The 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.

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B-9

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

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B-10

Sector:	Financial Services
Sub-sector:	Securities
Obligations Concerned:	National Treatment (Article 11.3)
Measure:	Securities Law No.70/2006/QH11 and Amended Law on Securities No.62/2010/QH12 Article 1, 2 and 3 of Decision No.55/2009/QĐ-TTg dated 15/4/2009 of the Prime Minister
Description:	Foreign participation from above 49% to less than 100% of charter capital of a securities company, fund management company in Viet Nam is subject to approval of the Government of Viet Nam, including the imposition of conditions for the approval. This non-conforming measure will be deemed to be a Section A measure under Article 11.10 (Non-Conforming Measures) in 5 years from the date of entry into force of this Agreement for Viet Nam.

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B-11

Sector: Financial Services

Sub-sector: Securities

Obligations National Treatment (Article 11.3)

Concerned: Market Access for Financial Institutions (Article 11.5)

Measure:

Description: Viet Nam reserves the right to adopt or maintain any measures 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 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.

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B-12

Sector: Financial Services

Subsector: Securities

**Obligations
Concerned:** Most-Favoured-Nation Treatment (Article 11.4)

Measure:

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.