



Australia's Restrictions on Trade in Financial Services

Staff
Research Paper

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PREFACE

This paper is part of a joint project between the Productivity Commission, the University of Adelaide and the Australian National University. The project is a three year study to identify and quantify Australia's impediments to trade in selected services sectors. The project is partly funded by the Australian Research Council.

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CONTENTS

Abbreviations	vii
Summary	ix
1 Introduction	1
2 Restrictions on trade in financial services	3
2.1 The GATS framework	3
2.2 Prudential and non-prudential measures	6
2.3 An approach to identifying and classifying restrictions	10
3 Australia's financial services measures	13
3.1 Identifying and classifying Australia's measures	13
3.2 Australia's measures as limitations on market access and national treatment	15
3.3 Entry requirements for financial service providers	16
3.4 Administration and funds management of public sector superannuation schemes	20
3.5 Workers' compensation insurance	21
4 Quantifying Australia's financial services measures	23
4.1 Applying an index to Australia's financial services measures	25
4.2 Results for Australia	26
4.3 Some qualifications	29
4.4 Further research	29
Appendix A: Australia's limitations on market access for financial services	31

**Appendix B: Australia's limitations on national treatment
for financial services** **61**

References **71**

Tables

3.1	GATS scheduled restrictions and total number of measures for Australia	16
4.1	Weightings applied in Claessens and Glaessner index	25
4.2	Degree of openness to trade in financial services in selected economies	27

Boxes

3.1	The 1997 Financial System Inquiry (Wallis Inquiry)	18
4.1	Asian financial crisis and trade in financial services	28

ABBREVIATIONS

ACT	Australian Capital Territory
ADI	authorised deposit-taking institution
APRA	Australian Prudential Regulation Authority
ASX	Australian Stock Exchange Limited
CFM	Commonwealth Funds Management Limited
CPC	United Nations Central Product Classification
CW	Commonwealth
FSI	Financial System Inquiry
GATS	General Agreement on Trade in Services
IC	Industry Commission
IMF	International Monetary Fund
ISC	Insurance and Superannuation Commission
MFN	most-favoured-nation
MoS	modes of supply
NSW	New South Wales
NT	Northern Territory
OECD	Organisation for Economic Co-operation and Development
PC	Productivity Commission
QLD	Queensland
RBA	Reserve Bank of Australia
SA	South Australia
TAS	Tasmania
VIC	Victoria
WA	Western Australia
WTO	World Trade Organization

SUMMARY

Financial services are important intermediate inputs for many other sectors of an economy. Financial services, among other things, facilitate transactions, pool and allocate financial resources, and provide services to manage risk. It is crucial that such services are supplied in a competitive, efficient and stable environment.

Liberalising trade in financial services by reducing regulation can increase competition and reduce costs. But some regulation is aimed at financial system stability — prudential regulation. Too much liberalisation may jeopardise financial system stability. Too little liberalisation may see the maintenance of an overly restrictive regime and lead to an uncompetitive financial services sector. An appropriate balance needs to be struck between achieving stability and competition objectives.

The World Trade Organization’s financial services agreement under the General Agreement on Trade in Services (GATS) provides a framework for identifying and classifying barriers to trade in financial services. Under the Agreement, Members voluntarily agree to apply the disciplines of ‘standstill’, ‘market access’ and ‘national treatment’ to their financial sectors, while also being bound by the non-discriminatory most-favoured-nation principle from the GATS framework agreement. However, Members may also list limitations on market access — measures to be retained that limit entry into a financial services market — and limitations on national treatment — measures to be retained that treat foreign financial service providers less favourably than domestic financial service providers.

The Agreement covers any service of a financial nature, but provides Members with the option of excluding coverage in certain areas. In particular, Members can exclude prudential measures aimed at ensuring the integrity and stability of a financial system, although the distinction between prudential and non-prudential measures is not clearly defined. This optional exclusion may lead to the perception that prudential measures are not restrictions.

Assessing whether a measure is a restriction to trade in financial services is not simply a question of assessing whether it is prudential, but whether it deliberately restricts trade or goes beyond achieving its financial regulation objectives — efficiency and stability in the case of prudential regulation, or market integrity and disclosure in the case of other financial regulation.

Identifying and classifying all measures applying to financial services, regardless of their purpose, improves transparency. It also provides preliminary information for assessing the appropriate scope and level of financial regulation.

This paper provides a comprehensive listing of Australia's financial services measures. Measures are listed in a schedule in a similar way to Australia's GATS schedule for financial services. However, the coverage of measures is broader than Australia's GATS schedule.

Although Australia has a relatively liberal financial services sector, the inclusion of prudential measures and certain other measures not listed by Australia in its GATS schedules greatly increases the number of measures — 165 measures are identified compared with 38 restrictions listed in Australia's GATS schedule. Many of these regulatory measures are likely to be necessary to maintain the efficiency, stability and adequate disclosure in the financial services sector.

Australia's major restrictions include:

- conditions on foreign banks acquiring any of the four major banks;
- government monopolies over the administration and, in certain cases, funds management of public sector superannuation funds; and
- restrictions on State and Territory provision of workers' compensation and compulsory third party insurance.

Eight of Australia's restrictions treat foreign service providers less favourably than domestic financial service providers.

An index measure developed by Claessens and Glaessner (1998) to measure the degree of openness of eight Asian economies — Hong Kong, India, Indonesia, Korea, Malaysia, Philippines, Singapore and Thailand — is used to measure Australia's degree of openness. Australia's trade in banking, insurance and securities is very liberal when measured against the eight Asian economies. Australia ranks second behind Hong Kong in banking and securities services and third behind Hong Kong and Singapore for insurance services.

1 INTRODUCTION

The strong growth in global trade and investment in recent years has been coupled with rapid growth in international trade in financial services. Restrictions on trade in financial services can have a significant impact on the provision of these services and the wider economy. Several studies have highlighted the gains from recent liberalisation and deregulation of financial services markets (OECD 1997, Claessens and Glaessner 1998 and Kono et al 1997), but many restrictions remain.

Liberalisation of trade in financial services, as in other service sectors, involves reducing unnecessary restrictions. Many restrictions arise from financial regulation aimed at achieving prudential and non-prudential objectives. For most economies, little comprehensive information on restrictions to trade in financial services is available. While some restrictions are documented under trading agreements, governments may be permitted to exclude some restrictions, or choose the extent of information which they disclose about them. This makes it difficult to identify restrictions comprehensively. Doing so within a consistent framework is a necessary first step to analysing the restrictiveness of financial regulation.

The framework under the World Trade Organization's financial services agreement of the General Agreement on Trade in Services (GATS) for identifying and classifying restrictions is outlined in Chapter 2. The coverage of the Agreement is limited in many respects, but can be extended to be more comprehensive.

In Chapter 3, Australia's financial services measures are identified and classified using an extended GATS framework. Measures are identified from Australia's GATS schedule for financial services and by searching Commonwealth, State and Territory legislation. As in the GATS, identified measures are listed against the United Nations Central Product Classification for financial services — banking, insurance and securities services. The list of measures also reflects the legislative arrangements that have been implemented as part of recent reforms to the financial system.

In Chapter 4, Australia's entry measures are quantified and compared against the entry measures of eight Asian economies, using an index approach. The index assesses the nature and extent of measures applying to banking, insurance and securities.

2 RESTRICTIONS ON TRADE IN FINANCIAL SERVICES

The General Agreement on Trade in Services (GATS) is a starting point for identifying and classifying restrictions on trade in financial services. The GATS provides a consistent framework for scheduling specific limitations on market access and national treatment. However, the GATS schedules themselves are limited by the positive listing approach, the fact that scheduling of prudential measures is optional, and the absence of specific criteria for distinguishing between prudential and non-prudential measures. Some prudential measures can be distinguished from non-prudential measures, while other measures are more difficult to classify. A more transparent approach can overcome many of these difficulties.

2.1 The GATS framework

Under the financial services agreement of the GATS, Members voluntarily agree to apply the disciplines of ‘standstill’, ‘market access’ and ‘national treatment’ to their financial sectors, while also being bound by the non-discriminatory most-favoured-nation (MFN) principle of the GATS framework agreement. However, Members may also list measures to be retained in violation of these disciplines. Measures are listed voluntarily — a positive list approach — in a Member’s schedule for each mode of supply.¹ The nature of these measures is discussed in more detail below.

The GATS defines a financial service simply as any service of a financial nature. The United Nations Central Product Classification (CPC) expands on

¹ The modes of supply are cross-border supply, consumption abroad, commercial presence and the temporary movement of natural persons (WTO 1994). Cross-border supply covers services supplied from the territory of one Member into the territory of another Member — for example, the supply of stockbroking services over the internet from one Member to the residents of another Member. Consumption abroad supply covers services supplied in the territory of one Member to the consumers of another Member — for example, a tourist using banking services in the territory of a foreign country. Commercial presence supply covers services supplied through any type of business establishment by one Member in the territory of another Member — for example, the establishment of a bank in the territory of a foreign country. The presence of natural persons involves services supplied by nationals of one Member in the territory of another Member — for example, an actuary locating and providing services in the territory of a foreign country.

the GATS definition with a list of specific financial services. Section 8, Division 81 of the CPC defines all banking and insurance services, and services auxiliary to banking and insurance. The financial services agreement of the GATS covers a subset of these, so Members' schedules reflect a modified CPC which excludes mainly services provided by central banks (GATT 1991).²

The coverage of the GATS focuses on measures imposed by a government. A measure is 'any measure by a Member, whether in the form of law, regulation, rule, procedure, decision, administrative action, or any other form' (WTO 1994). Measures by Members can be taken by central, regional or local governments, or by non-governmental authorities in the exercise of powers delegated by a government or government authority. Rules imposed by private organisations are excluded — for example, constitutional documents of banks with shareholding restrictions, and listing rules for private stock and futures exchanges. While private practices are not measures, the GATS recognises that these practices may restrain competition and restrict trade in services. The GATS requires Members to enter into consultation with a view to eliminating such practices (OECD 1994).

The GATS also operates to establish safeguards against domestic regulations operating to keep service suppliers out of a domestic market. However, at the same time, the GATS recognises the right of domestic regulators to impose minimum standards and conditions which relate to qualification requirements and procedures, technical standards, licensing and authorisation requirements (OECD 1994).

The desire to preserve the ability of Members to maintain control over domestic regulation is particularly evident under the financial services agreement of the GATS. The scheduling of some measures applying to financial services is optional — in particular, prudential measures aimed at ensuring the integrity and stability of a financial system (Low 1995, Kono and Low 1996, Sorsa 1997, Kono et al 1997, IC 1997). This is known as the 'prudential carve-out'.³ Under the GATS, prudential measures should not be used as a means of avoiding commitments and do not need to comply with the MFN principle (OECD 1994 and Sorsa 1997).

² Scheduled restrictions are specific to the financial services sector. Horizontal measures — that is, restrictions applying to all service sectors — are not required to be covered in the GATS schedules for financial services. For example, residency requirements for all corporations are excluded and residency requirements specific to insurance companies are included.

³ The GATS also makes optional the scheduling of measures pursuing monetary, exchange rate and social security policy (IC 1997). These measures are not covered by this paper.

The GATS stipulates six measures which limit *market access*. These are restrictions on:

- the number of service suppliers;
- the total number of service transactions or assets;
- the total number of service operations or the total quantity of service output;
- the total number of natural persons that may be employed in a particular sector;
- the types of legal entity through which a service can be supplied; and
- foreign equity participation in service suppliers.

The measures take the form of quantitative restrictions, except for a restriction on the type of legal entity.

Market access measures include initial market entry restrictions, such as restrictions on foreign equity participation in a bank, and restrictions after market entry, such as restrictions on the total quantity of financial services output. Mattoo (1996) provides clarification on aspects of market access. Firstly, not all measures that could limit market access are covered. Fiscal measures generally are excluded. A Member is not obliged to schedule a high non-discriminatory tax on a particular financial service which severely limits market access. Secondly, market access covers both discriminatory and non-discriminatory measures. For example, measures which specifically limit entry of new foreign banks and measures which limit the entry of all banks both should be listed in a Member's schedule. Thirdly, scheduled restrictions are maximum restrictions and Members can act more liberally. For example, a Member which has promised to allow only five foreign banks is free to grant entry to more than five.

The GATS defines *national treatment* as a Member providing 'treatment no less favourable than it accords to its own like services and service suppliers' (WTO 1994). The GATS permits Members to treat foreign service providers differently, as long as their competitive opportunities are not affected adversely (OECD 1994). Alternatively, a Member may treat a domestic financial service provider differently to effect equal competitive opportunities in a market. For example, a guarantee fee imposed on government guaranteed liabilities of a financial service provider would be consistent with national treatment, provided that the guarantee fee exactly equals the benefits received by the financial service provider from the guarantee.

2.2 Prudential and non-prudential measures

The prudential carve-out provides Members with the option to exclude prudential restrictions on market access and national treatment from the GATS schedules. This raises the issue of what specific measures constitute prudential measures (Kono and Low 1996). The primary purpose of a measure usually determines whether it is prudential or not. Some measures are clearly prudential or non-prudential, but others may be a combination of both.

Prudential measures

Prudential regulation is usually a significant element of regulation applying to a financial system. Prudential regulation is aimed at ensuring the stability of a financial system by preserving the solvency of financial service providers, limiting risk-taking of financial service providers and protecting depositors. These objectives can all be linked to limiting systemic risk. Systemic risk refers to potential threats to financial system stability arising from the risk-taking of individual financial service providers (OECD 1995).

The OECD argues that preserving the solvency of banks and their liabilities is a public policy necessity to preserve systemic stability and confidence in financial service providers (OECD 1997). Hogan and Sharpe (1988) argue that the purpose of much prudential regulation and supervision of banks is to constrain risk-taking induced by a 'moral hazard' problem associated with deposit protection schemes. They find bank depositor protection to be a central objective of prudential supervision in Australia. Thompson (1996) argues that prudential regulation is institutionally based and aims to ensure viability of institutions which have obligations to return minimum promised value with interest to depositors or investors. In Australia, prudential supervision is exercised over banks, building societies, credit unions, life insurers, general insurers and superannuation funds.

Prudential regulation covers conditions on entry or the ongoing operation of financial services providers. Prudential restrictions on market access for financial service providers are in the form of entry and ownership requirements. These restrictions are aimed at protecting depositors and limiting the risk profile of financial service providers — some essential characteristics of prudential regulation.

Licensing and majority ownership limits imposed by governments of many countries are examples of prudential measures. Entry requirements are aimed at ensuring the entry of creditable financial service providers. Entry is usually subject to meeting legal entity requirements, minimum capital requirements and

the capacity to comply with ongoing prudential regulation. Capital is normally held in a locally incorporated subsidiary which a prudential supervisor monitors and may have access to in the case of failure. Capital requirements influence the amount and type of risks financial service providers undertake. Ongoing prudential regulation limits other risks such as liquidity, large credit and foreign currency risks. Martin et al (1984) note that there is a close connection between policy regarding entry to the banking system and prudential supervision. They added that the freer the entry to the banking system, the greater the reliance is likely to be on ongoing prudential regulation. Wallis et al (1997) note that licensing brought financial institutions under prudential regulation and contributed to system stability. Kono and Low (1996) and Sorsa (1997) consider that licensing criteria would normally be part of the GATS prudential carve-out — that is, prudential measures.

Minority ownership restrictions commonly apply to banks and insurance companies. The restrictions limit ownership by any shareholder, usually to not more than 10 or 15 per cent, with approval required for a shareholder to hold above the stated limit. Arguments for maintaining a wide dispersion of ownership in banks include:

- giving protection to depositors against a bank being operated to serve the interests of a few shareholders;
- preventing the dominant control of a bank by one or few interests;
- avoiding conflicts of interest between an owner and the bank's business;
- ensuring reasonable independence and continuity of management;
- controlling market concentration; and
- enhancing a bank's ability to raise additional capital (Campbell et al 1981, Martin et al 1984, Hogan and Sharpe 1988, OECD 1995 and Treasury 1996).

Wallis et al (1996 and 1997) believe that the primary purpose of restrictions on minority shareholdings in banks is prudential. Such restrictions minimise the risk of a bank's stability being subject to the fortunes of a particular shareholder.

The arguments for restrictions on minority shareholdings in insurance companies are similar to those of banks (Wallis et al 1997 and ISC 1996). The primary purpose of these restrictions is also prudential.

A further example of a prudential measure is a restriction on intermingling of banks, securities businesses and insurance companies.

Ongoing prudential measures apply to financial service providers, mainly deposit-taking institutions and insurance companies. Examples of regulation affecting ongoing operation are:

- capital adequacy requirements;
- liquidity, credit and risk management requirements;
- prohibitions on conflicts of interest transactions;
- limits on large credit exposures;
- limits on association with non-banks;
- managing the exit of financial service providers; and
- disclosure of financial data to supervisors.

Measures with no prudential aspects

The primary purpose of measures with little or no prudential intent is to ensure market integrity and disclosure, or to meet other public policy purposes. Such measures are not aimed specifically at limiting systemic risk within a financial system.

Market integrity and disclosure measures

Market integrity and disclosure regulation is aimed at reducing the possibility of unfair conduct and protecting consumers of all financial services — banking, insurance, superannuation, securities trading and funds management (Wallis et al 1997). Market integrity regulation aims to ensure the integrity of market trading (OECD 1997), promote confidence and to protect participants from unfair practices. Disclosure regulation promotes adequate information dissemination to consumers for them to make investment decisions.

Market integrity and disclosure regulation applies in most services sectors, but may be more comprehensive for financial services to take account of the complexity and risks of such services. Thompson (1996) describes this type of regulation as product regulation. Product regulation is largely about standards of service and quality of information. It is directed at the competence of those offering financial services and the integrity of markets in which products are traded.

The licensing of securities advisers and requirements for disclosure of investment products are primarily non-prudential. Licensing aims to ensure that the rights of investors are protected, by ensuring that unsuitable persons do not offer financial services and by protecting the integrity of markets in which products are traded (Thompson 1996 and OECD 1997). Securities licences

cover individuals and firms dealing in securities, advising investors on the sale and purchase of securities, advising companies on how to raise capital from the market and underwriting issues of securities. The requirements to obtain a licence, usually from a government regulator, include being able to demonstrate solvency, having suitable educational qualifications, and being a fit and proper person.

Ongoing regulation applying to licensed securities advisers is aimed at adequate disclosure of information on investment products. Disclosure requirements for securities advisers cover informing the client of the characteristics of a security or product, potential conflicts of interest and the amount of commissions. The purpose of these requirements is to ensure that advisers disclose sufficient information to place a potential investor in a position to make an informed judgement as to whether or not to invest in securities or another investment product.

Further examples of regulation applying to entry are approval of share and futures exchanges, and licensing of clearing and settlement houses. Examples of ongoing regulation are those covering securities trading conduct, and supervisory and disclosure requirements for exchanges and clearing houses.

Measures meeting economic and social objectives

Other non-prudential regulation may be aimed at economic and social objectives. Governments intervene in a financial system to redistribute income, improve resource allocation or to protect the national interest. Examples of such measures are:

- government requirements for banks to provide certain transaction accounts free of fees;
- directions to financial service providers to lend to specific sectors such as housing and small business;
- a government agency providing an exclusive financial services contract to another government agency where an identical service could be provided by the private sector;
- government approval of financial service providers for taxation purposes; and
- restrictions on foreign bank entry on the basis of national interest concerns.

Measures with prudential and non-prudential aspects

It is sometimes difficult to classify measures as prudential or non-prudential. Governments may have different reasons for measures applying to financial services and some measures could be used for prudential and non-prudential reasons on different occasions. Further, many measures in a financial system could be assessed as being in some way linked to prudential measures.

Majority ownership restrictions on mergers or acquisitions of banks or insurance companies have both prudential and competition policy aspects. The prudential aspect is to ensure that the newly merged entity or owner is prudentially sound. The competition policy aspect is to safeguard against excessive market concentration in a financial system.

In Australia, the Treasurer considers any application for a substantial majority shareholding in the context of prudential considerations, the potential efficiency gains resulting from any rationalisation, and any potential losses resulting from reduced competition in the financial sector (Treasury 1996). Wallis et al (1997) and OECD (1995) suggest that the primary purpose of majority ownership restrictions is the promotion of competition. Prudential consideration for licensed banks and insurance companies would be unlikely to prevent mergers but regulatory, capital or other requirements may influence the methods used to give effect to mergers (Wallis et al 1997).

2.3 An approach to identifying and classifying restrictions

Within the GATS framework, difficulties arise with the scheduling of prudential measures. Such scheduling is optional and the distinction between prudential and non-prudential measures is not defined clearly. The prudential carve-out could lead to the perception that only non-prudential measures are restrictive. An important issue is whether prudential measures are necessary and reasonable.

Regulation applying to the financial system does not necessarily imply a restriction on trade in financial services. The relevant issue is whether the extent of regulation is no more than is necessary to achieve a competitive, stable and efficient financial system. In the context of the GATS, Kono and Low (1996) note that prudential measures imposed on financial service providers which are not more burdensome than necessary to ensure the solvency and smooth operation of those providers would normally be consistent with the prudential carve-out. However, Sorsa (1997) acknowledges that the distinction between protection and prudential supervision is blurred.

Assessing which financial regulations are excessive raises a number of difficult issues. These include:

- how to assess what is an appropriate level and coverage of financial regulation for different countries at different stages of development;
- whether it is desirable for countries with different systemic risk to harmonise financial regulation; and
- who should judge what is an appropriate level of financial regulation for a country — domestic or foreign regulators, or international organisations such as the Bank for International Settlements.

Broader questions arise as to what financial services a government should be providing and what financial services a government should be regulating. Detailed information on specific financial services measures would be required to make such assessments.

Given these difficult issues, the approach taken in this paper is to list all government-imposed limitations on market access and national treatment, regardless of whether measures are prudential or non-prudential. Compiling a comprehensive and detailed listing of Australia's measures greatly enhances transparency. This is an important first step towards quantifying the restrictiveness of regulations and assessing which regulations may be excessive or unreasonable. Such an approach provides a useful model for similar analysis of restrictions on trade in financial services in other economies. Greater international transparency of financial services measures also increases pressure on governments, usually through multilateral forums, to reduce their restrictions and improve the efficiency and stability of their financial sectors.

3 AUSTRALIA'S FINANCIAL SERVICES MEASURES

Australia's potential restrictions to financial services trade are identified by searching relevant Australian legislation for measures which restrict market access or violate national treatment. All identified measures, whether necessary or excessive, are included. Australia's measures are then presented in a schedule similar to WTO Members' GATS schedules for financial services (refer to Appendix A and B). The list of measures identified for Australia goes well beyond those in its GATS schedule for financial services.

3.1 Identifying and classifying Australia's measures

Australian legislation is the primary source of information on regulation of financial services.^{1 2} The type and coverage of legislation applying to financial services generally differs between the Commonwealth, and the States and Territories. The Commonwealth legislates predominantly for the prudential regulation of financial service providers and the stability of the financial system. This legislation generally covers all of Australia. The States and Territories legislate for their own financial services or the entry of some financial service providers into their jurisdiction.³

Legislation contains information on the provision of a financial service and is a starting point for collecting further information. Additional information on the application of legislation is available from the government agency responsible for administering the regulation. The information collected on financial

¹ Using primary legislation and subordinate instruments as a source for identifying limitations on market access and national treatment is straightforward and non-controversial. For example, the entry requirements to provide life insurance services are set out clearly in legislation and prudential standards. Identifying and assessing other restrictions may be subject to debate.

² Legislation applying taxes to financial services is not covered. The GATS provides exemptions from MFN and national treatment in respect of taxes meeting certain criteria.

³ The States and Territories currently legislate for the prudential regulation of non-bank financial institutions. These institutions include building societies and credit unions. As part of the implementation of the recommendations of the 1997 Financial System Inquiry, prudential regulation of these institutions will be transferred to the Commonwealth (Costello 1998b).

services provides detail on the nature of the financial service, and whether and how the financial service can be provided.

Australia's measures affecting financial services are listed in the appendices. The framework outlined in Chapter 2 is applied to the collected financial information to determine whether a measure is classified as a restriction on market access or national treatment. Financial service providers with a monopoly and further benefits, such as government guarantees and exemptions from taxation, are listed as restrictions on market access. These further benefits are considered to be part of the monopoly rights.

In scheduling government measures under the GATS, Australia included some restrictions on market access that could have been excluded from the financial services agreement. In particular, Australia scheduled some prudential measures. The appendices list all identified government measures limiting market access and national treatment. The inclusion of all identified prudential measures adds to the transparency of Australia's schedule as compared with those of other countries.

The complete United Nations Central Product Classification (CPC) is used to classify measures as accurately as possible against the relevant CPC for each Australian jurisdiction. The CPCs are divided into two, three, four and five digit CPC codes. Measures which are directly attributable to the provision of a service are scheduled against a five digit CPC. For example, the prudential requirements to enter the life insurance service market are aligned with *CPC 81211 Life insurance services*. Measures which relate to providing many services are scheduled against two, three or four digit CPC codes. For example, restrictions on foreign direct investment in any of the four major Australian banks are scheduled against *CPC 811 Financial intermediation services, except insurance and pension funds*. Banks provide many diverse banking services which are predominantly financial intermediation. Four and five digit classifications of CPC 811 also cover the provision of many banking services. CPCs with no corresponding entry mean that no measures are identified.

Measures which clearly apply to more than one service are scheduled against more than one CPC. For example, the Queensland Investment Corporation, a Queensland Government agency, has a monopoly over the provision of the funds management of Queensland public sector superannuation schemes and other Queensland public sector funds. The investment management of public sector superannuation funds is scheduled against *CPC 81212 Pension and Annuity Services*. The investment management of non-superannuation funds is

scheduled against *CPC 8119 Other financial intermediation services other than insurance and pension fund services*.⁴

As in the GATS schedules, measures are listed against each mode of supply. Many measures are listed against the mode of supply which dominates the restriction on the supply of a service. More than one mode of supply may be relevant for some measures. For example, a measure requiring commercial presence of an insurance company could be a restriction on the delivery of a service both through commercial presence and cross-border trade. However, commercial presence is usually the dominant mode of supply for insurance services.

3.2 Australia's measures as limitations on market access and national treatment

Australia's limitations on market access and national treatment cover:

- government monopolies over the provision of financial services;
- prudential regulation;
- restrictions on direct investment in deposit-taking institutions and insurance companies;
- government licensing requirements; and
- government guarantees to financial service providers.⁵

The appendices include all identified measures and provide more detail and explanation for those measures already listed in Australia's GATS schedule for financial services.

In the appendices, 165 measures are identified. This compares with 38 in Australia's GATS schedule (refer to Table 3.1). The higher number of Australian measures listed in the appendices reflects the broader coverage and the inclusion of measures that are not scheduled voluntarily as part of the positive listing approach under the GATS. Eight of the measures are discriminatory against foreigners.⁶

⁴ This measure does not align directly with a five digit CPC. *CPC 8119* broadly covers funds management.

⁵ Some limitations in the appendices are being reviewed as part of National Competition Policy.

⁶ The eight measures discriminating against foreigners are: the requirement that any foreign bank acquiring any of the four major banks is subject to there being no large-scale transfer of ownership of the financial system to foreigners; restrictions on foreign bank branches; the

Some of Australia's more important restrictions are entry requirements for financial services providers, administration and funds management of public sector superannuation schemes, and workers' compensation insurance.

Table 3.1: GATS scheduled restrictions and total number of measures for Australia^a

	<i>Number of GATS restrictions^{bcd}</i>			<i>Total number of measures</i>		
	<i>Common-wealth</i>	<i>States and Territories</i>	<i>Total</i>	<i>Common-wealth</i>	<i>States and Territories</i>	<i>Total</i>
Limitations on market access	8	24	32	50	91	141
Limitations on national treatment	3	3	6	12	12	24
Total	11	27	38	62	103	165

a Commonwealth measures apply to financial services provided throughout Australia. State and Territory measures apply to financial services within the boundaries of a State or Territory.

b Each restriction is counted in Australia's 1997 GATS schedule for financial services, rather than each commitment. For example, the GATS schedule lists the requirement to be a locally incorporated bank subsidiary and restrictions on foreign bank branches as one commitment. For the purposes of this table, this commitment is counted as two restrictions. A similar approach applies to one GATS commitment covering a restriction in each State and Territory. Such a commitment would be counted as eight restrictions.

c In the GATS, Australia also undertook commitments in accordance with the Understanding of Commitments in Financial Services (IC 1997). Many of these commitments broadly cover all financial services and are excluded from the above table.

d Some commitments appear to be outside the coverage of the GATS and are excluded from the count. For example, Australia's GATS schedule for financial services includes measures imposed by a private organisation, the Australian Stock Exchange (ASX). Horizontal restrictions (restrictions applying to all services sectors) in Australia's financial services schedule are also excluded.

Source: WTO (1998) and the appendices.

3.3 Entry requirements for financial service providers

Financial service providers are required to meet entry and prudential requirements to provide their services in Australia. These requirements are set

prohibition on foreign branch life insurers; the prohibition on placing life insurance business with foreign insurers; restrictions on actuaries for general insurance; restrictions on actuaries for life insurance; greater disclosure requirements to clients for policies with a foreign insurer; and approval of foreign futures exchanges. Minor additional licensing requirements imposed on foreigners for deposit-taking, insurance and superannuation services are excluded. Some of these measures are discussed later and details of the measures are in the appendices.

out in legislation and/or prudential guidelines. Australia's major financial service providers are deposit-taking institutions, insurance companies, securities businesses and superannuation funds. The Australian Prudential Regulation Authority (APRA) is responsible for licensing and prudential regulation of financial functions such as deposit-taking, insurance and superannuation funds management. The Australian Securities and Investments Commission (ASIC) is responsible for licensing of securities businesses and market integrity and disclosure regulation.

Financial service providers are able to enter any financial services market provided that they meet entry requirements. For example, a bank can provide life, general and superannuation funds management provided that it meets prudential and other requirements in supplying those financial services. A non-operating holding company structure is also permitted to own a number of different financial service providers such as a bank, general insurance company and life insurance company. Ongoing regulation covers prudential, market integrity and disclosure matters.

Financial regulation applying to the Australian financial system is undergoing significant changes, as the recommendations of a Government inquiry into the financial system are implemented. The new regulatory structure is in place and prudential guidelines will be amended to reflect the new arrangements. Changes to financial regulation already implemented are reflected in the appendices. Box 3.1 contains an outline of the 1997 Financial System Inquiry.

Entry requirements for deposit-taking institutions

Banking services can be provided through a locally incorporated subsidiary authorised deposit-taking institution (ADI) — bank, building society or credit union — or a foreign ADI (a foreign bank branch) by applicants which meet entry requirements. A locally incorporated subsidiary ADI can provide a full range of banking services while a foreign ADI is restricted in the banking services which it can provide. In particular, it cannot accept retail deposits or deposits of less than \$250 000. Foreign ADIs, in contrast to locally incorporated ADIs, are not required to hold local capital. Under existing prudential guidelines, the regulator considers it necessary for banks to hold capital in order to protect retail deposits (IC 1997).

Box 3.1: The 1997 Financial System Inquiry (Wallis Inquiry)

The Financial System Inquiry (FSI), announced by the Government on 30 May 1996, conducted a stocktake of the financial system since deregulation in the 1980s, identified the

forces driving change, and provided recommendations aimed at fostering an efficient and stable financial system. The Treasurer accepted the majority of the recommendations and is expected to complete the implementation of the financial system reforms by 1 July 1999.

The Government's objective in reforming the Australian financial system is to improve competition, efficiency and stability (Costello 1997c). The main recommendations accepted by the Government are:

- permitting foreign acquisition of substantial interests in the four major banks;
- regulating broad functions rather than institutions, through three agencies:
 - the Reserve Bank of Australia is responsible for payments system regulation, systemic stability and monetary policy;
 - the Australian Prudential Regulation Authority is responsible for the prudential regulation of deposit-taking institutions, life and general insurance, and superannuation; and
 - the Australian Securities and Investments Commission (ASIC) is responsible for market integrity, consumer protection and corporations;
- a more effective consumer protection regime, whereby the ASIC will establish a uniform and cost-effective disclosure regime for financial products;
- maintaining depositor protection arrangements for Australian depositors;
- increasing competition by giving non-banks greater access to clearance and settlement activities, provided that they met strong prudential and other financial safety requirements; and
- removing the special role of banks, facilitating wider participation in the payments system and more equal competition in financial markets.

Source: Wallis et al (1997), Costello (1997a, 1997c, 1998a and 1998b).

Entry requirements for life and general insurance companies

Life insurance and general insurance companies face separate market entry requirements. General insurance can be provided through locally incorporated subsidiaries or branches of foreign incorporated insurers.⁷ There is no legal distinction between a general insurance subsidiary and a branch except that a branch is required to be represented by an Australian resident at all times and have an address in Australia for the service of documents. Life insurance can be provided only through locally incorporated subsidiaries which meet entry requirements.⁸

⁷ Health insurance is generally separate from general insurance.

⁸ Branches of foreign incorporated life insurers operating prior to the introduction of the *Life Insurance Act 1995* are allowed to continue to operate.

The rationale for the restriction on branches of foreign incorporated insurers is to protect Australian policy holders. Solvency and capital adequacy requirements applied to statutory funds of a locally incorporated subsidiary life insurance company aim to ensure the protection of policyholders. Specific legislation also applies to all insurance agents and insurance contracts.

Entry requirements for financial market participants

Australia limits market access for securities and futures advisers to ensure that the rights of investors are protected by preventing unsuitable persons from offering their services.⁹ A licence is required to operate as a securities dealer or adviser or futures dealer or adviser. Similar entry requirements apply to licences for securities and futures dealers and advisers. The requirements for a person broadly cover solvency, educational qualifications, being a fit and proper person, and complying with ongoing disclosure requirements. Similar requirements apply to a corporation or the staff of a corporation. A person or corporation may appoint representatives under their licence, but a person must not appoint a corporation as a representative.

Entry requirements for superannuation funds

Superannuation funds management is undertaken mainly through a complying superannuation fund.¹⁰ Superannuation funds receive benefits from members of superannuation schemes and invest funds. Requirements to be a complying superannuation fund include being established as a trust, established for the sole purpose of providing superannuation benefits, being indefinitely continuing and being a resident regulated superannuation fund. Similar restrictions apply to other superannuation entities such as approved deposit funds and pooled superannuation trusts. An approved deposit fund accepts superannuation funds paid to a member after leaving employment, but before retirement age. A pooled superannuation trust receives funds for investment from complying superannuation funds.

Entry through direct investment

Direct investment in financial service providers is relatively open with approval usually granted beyond certain statutory limits on shareholdings. Specific direct

⁹ As part of the implementation of the recommendations from the Financial System Inquiry, a single licence — a financial intermediary licence — will be introduced for financial market dealers and advisers (Treasury 1997). Appendix A provides details of these new arrangements.

¹⁰ Complying superannuation funds receive substantial tax concessions over non-complying superannuation funds.

investment restrictions apply for financial sector companies — banks, building societies, credit unions, general insurance and life insurance companies. The Treasurer's approval is required to hold more than 15 per cent of the stake or share in a prudentially regulated financial sector company or an authorised non-operating holding company which holds a financial sector company. Approval is subject to a national interest test. Separate approval is also required for a merger between two or more authorised deposit-taking institutions or insurance companies.

Foreign direct investment is subject to the Commonwealth Government's foreign investment policy. Specific Government financial sector approval is required for a foreign bank to acquire any of the four major banks. In assessing an application for approval, the Government applies the principle that any large-scale transfer of Australian ownership of the financial system to foreigners would be contrary to the national interest (Costello 1997a). This foreign investment policy condition only applies to the four major banks.¹¹

3.4 Administration and funds management of public sector superannuation schemes

Australian government agencies have a monopoly over the administration of all major public sector superannuation schemes.¹² In certain jurisdictions, government agencies also have a monopoly over funds management for public sector superannuation funds.¹³ The Commonwealth, State and the Northern Territory public sectors operate superannuation schemes for civilian, defence and emergency services employees.¹⁴

The funds management services of public sector superannuation funds are managed by the private sector, public sector or a combination of the two. Queensland and Western Australian public superannuation funds are managed by public fund managers. South Australian, Tasmanian and Victorian public

¹¹ Hardin and Holmes (1997) note that restrictions in addition to those set out in the *Foreign Acquisitions and Takeovers Act 1975* apply in certain sensitive sectors. One of these sectors is banking.

¹² Superannuation scheme administration is essentially accounting for the payment of contributions and retirement benefits to members.

¹³ Commonwealth legislation will be introduced to provide employees with choice over which fund receives compulsory employer superannuation contributions made on their behalf (Costello 1997b). This policy is expected to commence on 1 July 1999 for new employees and 1 July 2000 for existing employees (Kemp 1998).

¹⁴ Australian Capital Territory Government employees are members of Commonwealth superannuation schemes.

sector superannuation funds are managed by a combination of public and private fund managers. Commonwealth, New South Wales and Northern Territory public sector superannuation funds are managed by private fund managers.¹⁵ Public sector superannuation funds differ in the extent to which they are required to comply with Commonwealth and State taxation.

Public sector superannuation schemes are exempt from Commonwealth legislation relating to prudential and disclosure requirements. Some public sector schemes are also exempt from the provisions of the *Superannuation Industry (Superannuation) Act 1993*, but have agreed to comply with the spirit and intent of this Act.

3.5 Workers' compensation insurance

Workers' compensation insurance is provided by government monopolies or government approved insurance companies. Workers' compensation premiums are paid by employers to insure their employees for work-related accidents and illness.

Restrictions on market access for the provision of workers' compensation insurance varies between Australian jurisdictions. Queensland and South Australian workers' compensation insurance is provided mainly by a public sector monopoly.¹⁶ Comcare, a Commonwealth government agency, has a monopoly over the provision of workers' compensation insurance for Commonwealth and Australian Capital Territory government employers. In New South Wales, Tasmania, Victoria and Western Australia, insurance companies providing workers' compensation insurance must be licensed by the respective State governments. The requirements to be a licensed workers' compensation insurer vary between jurisdictions but include being authorised under the *Insurance Act 1973* (Commonwealth), being financially viable and committing sufficient resources to providing workers' compensation insurance. In some jurisdictions, the type of services licensed insurance companies can provide is limited — for example, insurers may not be permitted to provide underwriting services. Licensed insurers are supervised by the relevant jurisdiction's regulator.

¹⁵ The majority of Commonwealth superannuation funds are managed by Commonwealth Funds Management Limited (CFM). CFM, previously Commonwealth-owned, was privatised in 1996.

¹⁶ In South Australia, claims managers, usually insurance companies approved by the WorkCover Corporation of South Australia, provide claims management services.

An Industry Commission report discusses restrictions on the provision of compulsory third party insurance and government guarantees to domestic financial institutions (IC 1997).

4 QUANTIFYING AUSTRALIA'S FINANCIAL SERVICES MEASURES

An index approach, rather than a more useful price-cost measure, is used to quantify Australia's measures affecting trade in financial services. An index methodology quantifies the nature and extent of measures for all financial services of an economy. A price-cost approach examines prices and costs of financial services and compares those with prices and costs in an efficient market.

A price-cost approach to quantifying financial regulations is particularly difficult. Financial services cover a wide range of activities including deposit-taking, insurance, funds management, securities trading and financial advice services. Financial data are collected usually on an institutional basis, while data, in particular for costs, are required on a functional basis. For example, a bank's costs in operating a funds management business are usually difficult to separate from its costs for banking services. Furthermore, collecting comparable price and cost data for a number of different countries with differing accounting conventions and financial services is extremely difficult. Claessens and Glaessner (1998) discussed the difficulties of cost comparisons due to a number of regulatory, tax and economic factors which affect financial intermediation.¹

Claessens and Glaessner applied an index approach to quantify regulations in financial service markets in eight Asian economies. The approach used available information on regulations to quantify the extent to which comparable economies had more or less restrictive trading regimes for financial services. They developed an index covering five ways in which financial services are commonly restricted — establishment and ownership, offices and automatic teller machines, lending and business activity, universal banking, and residency requirements. Each entry category was assigned a score from 1 to 5, 1 being most closed and 5 being most open.

For example, in the establishment and ownership entry category, a score of 5 was assigned where new licences are granted and a score of 3 was assigned where no new licences are granted. In the lending and business activity entry category, a score of 5 was assigned where there are no restrictions on lending

¹ Newman et al (1995) found that variations in the regulation of banks by different supervisory agencies leads to variations in the efficiency or operating costs of banks.

and business activity and a score of 1 was assigned to restrictions on management and operations such as mandatory lending to certain sectors, or securities trading limited to selected firms or limits on investment trust services. In the residency requirement entry category, a score of 5 was assigned to an economy with no restrictions on the composition of board membership, a score of 3 for restrictions according to the proportion of foreign ownership and a score of 2 for economies restricting board membership by foreigners to less than one half. The index system, of course, is dependent upon judgement about the extent of restrictions, and the relative importance of different areas of restrictions. It is therefore partly subjective.

The entry categories cover both prudential and non-prudential measures. Claessens and Glaessner made no clear distinction between prudential and non-prudential measures in their index. There were a few cases where non-prudential controls were identified explicitly and assigned a low (or restrictive) score. For example, in the establishment and ownership category, a score of 1 was assigned where non-prudential government approval is required for establishment. However, in other cases, measures which arguably could be prudential were also assigned relatively low scores. For example, in the lending and business activity entry category, a score of 2 was assigned to specific limits on offshore lending and lending of foreign bank branches.

Weightings were applied to the five entry categories for banking, and three of the five categories for securities and insurance services sectors (refer to Table 4.1).² Restrictions on establishment and ownership, and lending and business activity were given more weight than others such as residency requirements.

The methodology was applied to GATS commitments and the measures applying to financial services in Hong Kong, India, Indonesia, Korea, Malaysia, the Philippines, Singapore and Thailand. The study found Hong Kong to be the most open for banking and securities services, Singapore to be the most open for insurance services, and India to be the most closed for banking, insurance and securities services.

² Claessens and Glaessner also use a similar methodology to measure the openness of capital flows.

Table 4.1: Weightings applied in Claessens and Glaessner index

<i>Entry category</i>	<i>Banking</i>	<i>Securities</i>	<i>Insurance</i>
Establishment and ownership	0.30	0.40	0.40
Offices and ATMs	0.25	na	na
Lending and business activity	0.30	0.50	0.50
Universal banking	0.10	na	na
Residency requirements	0.05	0.10	0.10
Total	1.00	1.00	1.00

na not applicable

Source: Claessens and Glaessner (1998).

4.1 Applying an index to Australia's financial services measures

The Claessens and Glaessner methodology is applied to Australia's current entry measures in a similar way to the eight Asian economies. One problem in applying the methodology is that the Claessens and Glaessner study classified measures into five main categories, while Appendix A and B has greater detail and broader coverage. To compare like with like, the focus is on major restrictions on entry into Australian banking, insurance and securities markets. Examples of Australian measures not covered by the index are government restrictions on superannuation administration and funds management.³

The methodology is applied to current practice. Some statutory restrictions may not amount to actual restrictions. Financial legislation permits some types of entry, but it is often Commonwealth Government policy to approve suitable applicants above a stated limit. For example, Australia has a 15 per cent statutory shareholding limit on financial sector companies or their authorised non-operating holding company. Subject also to foreign investment policy, government approval is usually granted for any creditable corporation to hold any amount above the 15 per cent limit.⁴ The index is applied to restrictions on actual approvals.

³ These restrictions are discussed in Chapter 3.

⁴ Treasury (1996) outlines some examples of approvals above the minimum statutory limit under previous banking and insurance legislation — the *Banks (Shareholdings) Act 1972* and Part 2 of the *Insurance Acquisitions and Takeovers Act 1991*. Some notable approvals of foreign banks acquiring domestic banks are Bank of Scotland acquiring a majority interest in BankWest and Rabobank acquiring the Primary Industry Bank of Australia. In

Government policy permitting entry through acquisition of an authorised deposit-taking institution or insurance company contributed to a high score for the establishment and ownership category for banking and insurance services sectors in Australia. Claessens and Glaessner assign a relatively low score where a maximum shareholding limit applies and cannot be exceeded. In Malaysia, for instance, Claessens and Glaessner found that foreign ownership in domestic securities firms is limited to an absolute maximum of 49 per cent. Thus, a restriction which is applied as prescribed receives a lower score than a restriction where government approval is usually forthcoming beyond a prescribed limit.

Capital controls, financial taxes and restrictions on national treatment were not covered in the index for Australia.⁵ Claessens and Glaessner developed a separate index for capital controls.⁶ Australia has no controls on capital flows. Floating the Australian dollar in 1983 meant abandoning exchange rate controls and permitting the free movement of foreign capital into and out of Australia (Wallis et al 1997). The restriction on foreign direct investment in any of the four major banks is covered by the index applying to banking services. As outlined in Chapter 3, taxes applying to financial services are not covered as part of this study. Restrictions on national treatment were not specifically covered by Claessens and Glaessner. Accordingly, the few Australian restrictions on national treatment are not covered in the index for Australia.

4.2 Results for Australia

Australia's financial services market is relatively open compared with the eight Asian economies analysed by Claessens and Glaessner (refer to Table 4.2). The openness indicators for banking, securities and insurance for Australia are significantly above the average for selected Asian economies. Australia ranks second in banking and securities services markets behind Hong Kong, and third behind Singapore and Hong Kong in insurance services markets.

insurance, AXA SA (a French insurance company) acquired a majority interest in National Mutual.

⁵ The index is applied to measures specific to the financial services sector.

⁶ The index covers restrictions on inward remittances, foreign borrowing, lending to non-residents, investment abroad, investment into a country and foreign exchange allowances.

Table 4.2: Degree of openness to trade in financial services in selected economies^a

<i>Economy</i>	<i>Banking</i>	<i>Securities</i>	<i>Insurance</i>
Hong Kong	4.75	4.40	4.00
Australia	4.20	4.00	3.50
Indonesia	3.20	3.00	2.60
Korea	1.70	2.10	2.60
Malaysia	2.40	2.50	2.10
Philippines	3.35	2.40	2.80
Singapore	2.50	2.70	4.10
Thailand	2.85	2.00	2.80
India	2.25	2.10	1.00
Average	3.02	2.80	2.83

a The higher the score, the more open is the financial services market. Scores range from 1 to 5 with a score of 5 being most open and a score of 1 being most closed.

Source: Claessens and Glaessner (1998). Australia's results are calculated as part of this paper.

For Australia, banking and insurance services have broadly similar entry, prudential and ownership requirements, but insurance has a lower overall score. This reflects restrictions imposed by Australian jurisdictions on the provision of compulsory third party and workers' compensation insurance. Australia also scores well in the securities services market, with the main measure being licensing of individuals and securities businesses.

Claessens and Glaessner found that Hong Kong has no limits on the form of establishment and ownership for banks and securities businesses, but the number of licences in insurance is limited to those already available. While Singapore is generally considered a relatively open Asian economy, it has a relatively low score for banking and securities. This reflects the freeze on the issue of full banking licences and limits on foreign ownership in securities. However, minor restrictions apply to the provision of insurance services in Singapore. Other Asian economies tend to have lower scores than Hong Kong and Australia due to the wider range of measures they impose. These include prohibitions on new banking and insurance licences, restrictions on foreign shareholding to 50 per cent for securities businesses, and restrictions on lines of business such as insurance underwriting.

The scores for the eight Asian economies were compiled before the Asian financial crisis. The Indonesian, Korean and Thai financial systems are required to undertake financial system reform to secure access to International Monetary Fund (IMF) Stand-by Credit Facilities. The scores for these three economies may increase with the IMF requiring liberalisation of their financial

systems. Many of the reforms are being implemented. Box 4.1 provides an overview of financial system reforms to which Indonesia, Korea and Thailand have agreed.

Box 4.1: Asian financial crisis and trade in financial services

The Asian financial crisis produced severe difficulties for many countries, but is now providing opportunities for freer trade in financial services. The IMF identifies the key domestic factors leading to the Asian difficulties as the failure to dampen overheating economic pressures, the maintenance of pegged exchange rate regimes for too long and lax prudential rules and financial oversight (Fischer 1998). The economies most affected by the crisis are Indonesia, Korea, and Thailand. As a condition of the IMF Stand-by Credit Facilities, Indonesia, Korea, and Thailand agreed to improve prudential regulation, promote competition in their financial systems and liberalise trade in financial services.

The IMF conditions on credit facilities for Indonesia, Korea and Thailand were similar. These countries were required to manage the exit of unviable financial institutions, implement measures to recapitalise and restructure troubled but viable financial institutions, and improve the institutional prudential framework and standards. In addition, Indonesia agreed to the merging of four state banks and the subsequent sale of the merged entity.

These countries agreed to liberalise their financial systems, including liberalising foreign equity participation in financial institutions. Indonesia has agreed to implement minimum capital requirements for non-foreign exchange and foreign exchange banks, lift restrictions on branching of foreign banks, and eliminate all restrictions on bank lending except for prudential reasons or for small enterprises. The reforms agreed to by Korea include allowing foreigners to establish bank subsidiaries and brokerage houses, removing restrictions on foreigners investing in domestic money market instruments and the corporate bond market, and eliminating restrictions on foreign borrowing by corporations. The reforms agreed to by Thailand include greater foreign equity participation in the financial system and encouraging banks to develop strategic partnerships with foreign banks.

Source: Government of Indonesia (1998a, 1998b and 1998c), Government of South Korea (1997a, 1997b, 1997c, 1998a, 1998b and 1998c) and Government of Thailand (1997, 1998a, 1998b and 1998c), IMF 1998 and IMF Press Releases (various).

4.3 Some qualifications

Applying the index for different countries is dependent on the available information, the coverage of important measures, and a judgement on the score to apply to each services sector. The available information on Australia's measures goes well beyond that available in Australia's GATS schedule and information in other trading agreements, such as Asia Pacific Economic Cooperation Individual Action Plans. Compared with the GATS, Appendices A and B have a larger number of measures, wider coverage (including prudential measures) and provide greater detail on each measure. This contrasts with the more general list of measures compiled by Claessens and Glaessner for the eight Asian economies.

The coverage of the index could also be improved. The index covers restrictions on market entry, with no specific coverage of restrictions on national treatment or scoring of measures for different modes of service supply. Some market entry restrictions are difficult to align with an appropriate score and other restrictions, such as on superannuation, are not covered by the index.

The results also provide no indication of the stability of a financial system. As discussed in Chapter 2, financial regulation can improve the efficiency, stability, market integrity and disclosure in the financial services sector. Pressure on countries to liberalise usually involves removing or reducing regulation, including prudential regulation, but may reduce the stability of a financial system. Lower capital requirements may improve market access, increase competition through the attraction of many financial service providers and lower prices. However, a reduction in standards below an acceptable level may increase instability and have wider economic ramifications, as evidenced by the Asian financial crises (IMF 1998 and Goldstein and Hawkins 1998).

4.4 Further research

This paper has identified, classified and, to a limited extent, quantified Australia's financial services measures. A similar comprehensive list of measures for other economies would improve transparency significantly.

Further progress would involve estimating the price impact of restrictions on trade in financial services and the protection afforded to service providers. This would require the compilation of detailed and internationally comparable data on prices and costs for financial services. As noted earlier in this Chapter, there are many difficulties in doing so. However, empirical and methodological

developments may make it possible to derive such price impact measures for many economies in the period leading up to the next round of WTO services trade negotiations. Saunders and Schumacher (1997a and 1997b) offer some useful first steps.

Appendix A: Australia's limitations on market access for financial services^{abcde}

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris– diction</i>	<i>MoS^g</i>	<i>Limitations on market access</i>
81	Financial Intermediation Services and Auxiliary Services			
811	Financial intermediation services, except insurance and pension fund services	ACT NSW NT QLD SA TAS VIC WA	3	Under some State and Territory legislation, banks must be authorised under Commonwealth legislation to provide banking services to other service sectors. For example, under some State and Territory legislation government agencies must conduct their banking business with an authorised bank under the <i>Banking Act 1959</i> (Commonwealth).
		CW ACT NSW NT QLD SA TAS VIC WA	3	Under some Commonwealth, State and Territory legislation, banks must be approved by a Commonwealth, State or Territory government to provide banking services to other service sectors. For example, some Australian governments require their agencies to conduct their banking business with banks approved by the respective government.
		CW	3	Commonwealth Government approval is required for a foreign bank to acquire one of the four major Australian banks (ANZ, Commonwealth, National Australia and Westpac). Any proposed takeover or acquisition of the four major banks will be assessed like any other proposed foreign takeover or acquisition, on a case by case basis, in accordance with the <i>Foreign Acquisitions and Takeovers Act 1975</i> . In making these assessments, the Government applies the principle that any large scale transfer of Australian ownership of the financial system to foreigners would be contrary to the national interest.

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris– diction</i>	<i>MoS^g</i>	<i>Limitations on market access</i>
		CW	3	Authorisation from the Australian Prudential Regulation Authority (APRA) is required to carry on the business of banking. Under the <i>Banking Act 1959</i> , a deposit-taking institution must be a body corporate and authorised by the APRA. ^h An authorised deposit-taking institution — bank, building society and credit union — must be granted consent from the APRA to use the term bank, building society, credit union or bank-related word. ⁱ A non-operating holding company must be authorised to have a subsidiary authorised deposit-taking institution. ^{GATS-PFSI GATS-2}
		CW	3	Authorisation from the APRA is required to operate as a foreign bank branch. Under the <i>Banking Act 1959</i> , a foreign deposit-taking institution or bank branch must be authorised by the APRA to carry on banking business. The requirements to be an authorised foreign deposit-taking institution include being authorised to carry on a banking business in a foreign country. A foreign authorised deposit-taking institution is not subject to the depositor protection provisions of the <i>Banking Act 1959</i> . ^{j GATS-PFSI}
		CW	3	The Treasurer’s or the Treasurer’s delegated approval is required for any mergers and/or acquisition of an authorised deposit-taking institution. Under the <i>Banking Act 1959</i> , approval by the Treasurer is required for any reconstruction of the assets of a locally incorporated authorised deposit-taking institution. A reconstruction of assets includes carrying on partnerships, mergers and acquisitions.
		CW	3	Under the <i>Banking Act 1959</i> , a foreign bank requires the approval of the APRA to establish a representative office in Australia. A representative office must confine its operations to purely liaising; is prohibited from conducting any form of banking business; and is required to be a foreign company under the Corporations Law.
		CW	3	The Treasurer’s approval is required to hold more than 15 per cent of the stake or share in an authorised deposit-taking institution or its authorised non-operating holding company. Under the <i>Financial Sector (Shareholdings) Act 1998</i> , a person and their associates are restricted to a 15 per cent shareholding limit. A person and their associates whose stake does not exceed 15 per cent may be declared by the Treasurer to have practical control — the power to control the operations and policies — of a authorised deposit-taking institution. The Treasurer may approve a higher percentage stake on national interest grounds.
		CW	3	Under the <i>Financial Corporations Act 1974</i> , corporations whose principal business is to borrow and provide finance must be registered and furnish financial information to the Reserve Bank of Australia.
		CW	3	Under Prudential Statement C2 — Funds Management and Securitisation, banks must operate funds management and securitisation schemes separate from banking groups. These activities must be conducted through a separate entity or special purpose vehicle.

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris– diction</i>	<i>MoS^g</i>	<i>Limitations on market access</i>
		ACT	3	Australian Capital Territory Government approval and legislation is required for a merger between two or more banks.
		NSW	3	New South Wales Government approval and regulations are required for a merger between two or more banks. Under the <i>Bank Mergers Act 1996</i> , regulations must give effect to a merger.
		NT	3	Northern Territory Government approval and legislation is required for a merger between two or more banks.
		QLD	3	Queensland Government approval and legislation is required for a merger between two or more banks.
		SA	3	South Australian Government approval and regulations are required for a merger between two or more banks. The <i>Bank Mergers (South Australia) Act 1997</i> requires regulations to give effect to a merger.
		TAS	3	Tasmanian Government approval and legislation is required for a merger between two or more banks.
		TAS	3	Under the <i>Trust Bank (Corporatisation) Act 1997</i> , the Trust Bank of Tasmania may require a joint venture arrangement. ^{GATS}
		VIC	3	Victorian Government approval and legislation is required for a merger between two or more banks.
		WA	3	Western Australian Government approval and legislation is required for a merger between two or more banks.
8111	Services of monetary intermediaries			
81111	Central bank deposit services	CW	3	The Reserve Bank of Australia, a Commonwealth Government agency, is the central borrowing authority for the Commonwealth public sector. Under the <i>Reserve Bank Act 1959</i> , the Reserve Bank of Australia has the power to act as banker and provide other financial services to the Commonwealth. ^k
		ACT	3	The Central Financing Unit, within the Office of Financial Management of the Australian Capital Territory Government, is the central borrowing authority for the Australian Capital Territory public sector. The Central Financing Unit is responsible for the majority of borrowing and investing for the Australian Capital Territory public sector. Under the <i>Financial Management Act 1996</i> , the Australian Capital Territory Government may guarantee the payment of borrowings or the performance of an obligation.
		NSW	3	The New South Wales Treasury Corporation, a New South Wales Government corporation, is the central borrowing authority for the New South Wales public sector. Under the <i>Treasury Corporation Act 1983</i> , the

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris– diction</i>	<i>MoS^g</i>	<i>Limitations on market access</i>
				Corporation provides deposit services, investment management, investment advice, treasury advice, and risk and liability management. All financial liabilities of the Corporation are guaranteed by the New South Wales Government. The Corporation pays a Commonwealth income tax equivalent to the New South Wales Government. ^{GATS}
		NT	3	The Northern Territory Treasury Corporation, a Northern Territory Government corporation, is the central borrowing authority for the Northern Territory public sector. Under the <i>Northern Territory Treasury Corporation Act</i> , the Corporation lends funds, provides financial advice and invests cash balances. All obligations incurred by the Corporation are guaranteed by the Northern Territory Government. ^{GATS}
		QLD	3	The Queensland Treasury Corporation, a Queensland Government corporation, is the central borrowing authority for the Queensland public sector. Under the <i>Queensland Treasury Corporation Act 1988</i> , the Corporation finances major infrastructure and capital needs; provides liability and financial risk management services; and markets debt issues. The Corporation is exempt from the payment of income tax. The Corporation's borrowings are guaranteed by the Queensland Government. Participation in the Corporation's activities is voluntary for local authorities, statutory bodies and Government-owned enterprises, and compulsory for Government departments. ^{GATS}
		SA	3	The South Australian Government Financing Authority, a South Australian Government authority, is the central borrowing authority for the South Australian public sector. Under the <i>Government Financing Authority Act 1982</i> , the Authority provides liability management, cash management and other financial service requirements of various individual public sector entities. The South Australian Government guarantees the liabilities of the Authority. The Tax Equivalent Regime applies to the Authority. ^{1 GATS}
		SA	3	The Local Government Finance Authority, a South Australian Government authority, is the preferred borrowing authority for South Australian councils and local government authorities. Under the <i>Local Government Finance Authority Act 1983</i> , the Authority develops and implements borrowing and investment programmes for local government. All local authorities are automatically members of the Authority, but use of the Authority is voluntary. The South Australian Government guarantees the liabilities of the Authority and guarantee fee arrangements apply. The Tax Equivalent Regime applies to the Authority. ^{GATS}
		TAS	3	The Tasmanian Public Finance Corporation, a Tasmanian Government corporation, is the central borrowing authority for the Tasmanian public sector. Under the <i>Tasmanian Public Finance Corporation Act 1985</i> , the Corporation provides investment, debt, asset and risk management services for government agencies. The liabilities of the Corporation are guaranteed by the Tasmanian Government and guarantee fee arrangements

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris– diction</i>	<i>MoS^g</i>	<i>Limitations on market access</i>
				apply. The Tax Equivalent Regime applies to the Corporation. ^{GATS}
		VIC	3	The Treasury Corporation of Victoria, a Victorian Government corporation, is the central borrowing authority for the Victorian public sector. Under the <i>Treasury Corporation of Victoria Act 1992</i> and the <i>Borrowing and Investment Powers Act 1987</i> , the Corporation obtains financial accommodation within or outside Australia and on-lends funds to Victorian public sector authorities. Under the <i>Borrowing and Investment Powers Act 1987</i> and the <i>Treasury Corporation of Victoria Act 1992</i> , the Victorian Government guarantees the performance of all obligations of the Corporation. ^{GATS}
		WA	3	The Western Australian Treasury Corporation, a Western Australian Government corporation, is the central borrowing authority for the Western Australian public sector. Under the <i>Western Australian Treasury Corporation Act 1987</i> , the Corporation borrows, manages and lends money to meet the funding needs of the Western Australian public sector. The financial liabilities of the Corporation are guaranteed by the Western Australian Government and guarantee fee arrangements apply. The Corporation is not liable for taxation. ^{GATS}
81112	Central bank supervisory services			
81113	Central bank reserve management services			
81114	Central bank currency issue services			
81115	Wholesale deposit services			
81116	Other bank deposit services			
81117	Non-central bank currency issue			

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris– diction</i>	<i>MoS^g</i>	<i>Limitations on market access</i>
	services			
81119	Other deposit services of monetary intermediaries			
8112	Financial leasing services (except insurance and pension fund services)			
81120				
8113	Other credit granting services			
81131	Mortgage loan services (except insurance and pension fund services)			
81132	Personal instalment loan services (except insurance and pension fund services)			
81133	Credit card services			
81139	Other credit services			
8119	Other financial intermediation	CW	3	Approval from the Australian Securities and Investments Commission (ASIC) is required to operate a managed investment scheme. Under the <i>Corporations Law</i> , fund managers must be licensed and meet certain requirements

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris– diction</i>	<i>MoS^g</i>	<i>Limitations on market access</i>
	services other than insurance and pension fund services			<p>to operate a managed investment scheme or unit trust. The requirements to operate a managed investment scheme include:</p> <ul style="list-style-type: none"> • being a single responsible entity which is a public company; • holding a dealers licence with the authority to operate a managed investment scheme;^m • registration of a managed investment scheme with the ASIC. The scheme must have an appropriate constitution and compliance plan; and • the licensed single responsible entity complying with ongoing regulation relating to compliance plans, financial reporting, meetings and annual returns.
		QLD	3	The Queensland Investment Corporation, a Queensland Government corporation, is the main funds manager for the Queensland public sector. Under the <i>Queensland Investment Corporation Act 1991</i> , the Corporation provides investment, funds management and other financial services to the Queensland Government. The Corporation’s clients include WorkCover Queensland, the Motor Accident Insurance Commission and the Public Trustee of Queensland. The Corporation pays equivalent Commonwealth income tax and equivalent State taxation. The Government may agree to guarantee the liabilities of the Corporation and the Corporation receives all the powers, immunities, privileges, rights and remedies of the State, as a representative of the State.
		VIC	3	The Victorian Funds Management Corporation, a Victorian Government corporation, is the main funds manager for the Victorian public sector. Under the <i>Victorian Funds Management Corporation Act 1994</i> , the Corporation is a manager of fund managers, and provides investment and funds management services. The Corporation’s clients include the Transport Accident Commission, the Victorian WorkCover Authority, the Victorian Managed Insurance Authority and the Director of Housing. Under the <i>Borrowing and Investment Powers Act 1987</i> and the <i>Victorian Funds Management Corporation Act 1994</i> , the Victorian Government guarantees the performance of any obligations of the Corporation. The Tax Equivalent Regime applies to the Corporation.
81191	Closed-end investment trust services			
81192	Property unit trust services			
81193	Open-ended unit			

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris– diction</i>	<i>MoS^g</i>	<i>Limitations on market access</i>
	trust services			
81199	Intermediation service nec			
812	Insurance (including reinsurance) and pension fund services, except compulsory social security services	ACT NSW NT QLD SA TAS VIC WA	3	Under some State and Territory legislation, insurance companies must be authorised under Commonwealth legislation to provide insurance services to other service sectors. For example, under some State and Territory legislation, builders must insure with insurance companies authorised under the <i>Insurance Act 1973</i> (Commonwealth).
		CW ACT NSW NT QLD SA TAS VIC WA	3	Under some Commonwealth, State and Territory legislation, insurance companies must be approved by a Commonwealth, State or Territory government to provide insurance services to other service sectors. For example, under some State and Territory legislation, government corporations must insure their liabilities with government approved insurance companies.
		CW	3	The Treasurer’s approval is required to hold more than 15 per cent of the stake or share in a registered life or authorised general insurance company or its authorised non-operating holding company. Under the <i>Financial Sector (Shareholdings) Act 1998</i> , a person and their associates are restricted to a 15 per cent shareholding limit. A person and their associates whose stake does not exceed 15 per cent may be declared by the Treasurer to have practical control — the power to control the operations and policies — of an insurance company. The Treasurer may approve a higher percentage stake on national interest grounds.
		CW	3	The Treasurer’s approval is required to acquire or lease 15 per cent or more of the assets of an Australian insurance company. Under the <i>Insurance Acquisitions and Takeovers Act 1991</i> , a person or persons are limited to acquiring or leasing 15 per cent or more of the total book value of the assets of an Australian insurance company. The Treasurer may approve, with or without conditions, a person or persons to acquire or lease 15 per

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				cent or more.
		CW	3	The Treasurer’s approval is required for a major shareholder to amend the constitutional documents of an Australian insurance company. Under the <i>Insurance Acquisitions and Takeovers Act 1991</i> , a person or persons who hold 15 per cent or more of the shares in an Australian insurance company are restricted from altering the memorandum of association and articles of association of the company. The documents may be altered with the approval of the Treasurer.
		NSW	3	As part of the demutualisation of the AMP Society, legislated shareholding restrictions apply for a limited period. Under the <i>Australian Mutual Provident (Demutualisation and Reconstruction) Act 1997</i> , persons are restricted to holding 5 per cent of shares for a period of 12 months after AMP’s listing on the Australian Stock Exchange. The New South Wales Government has the discretion to extend this restriction for a further 12 months.
8121	Life insurance and pension fund services			
81211	Life insurance services	CW	3	Registration is required from the APRA to carry on the business of life insurance. Under the <i>Life Insurance Act 1995</i> , the requirements to be a registered life insurance company include: <ul style="list-style-type: none"> • being a body corporate; • a minimum capital requirement of \$10m for companies limited by shares and companies limited by shares and guarantee; • a \$5m excess of assets over liabilities for a company limited by shares; • that the company is able to meet its obligations and comply with the insurance legislation; and • compliance with ongoing regulation including solvency and capital requirements, statutory funds, financial management and residency requirements.^{GATS-P}
		CW	3	Under the <i>Life Insurance Act 1995</i> , branches of foreign incorporated life insurers are prohibited from establishing in Australia. Branches of foreign incorporated life insurers operating prior to the introduction of the <i>Life Insurance Act 1995</i> are permitted to continue to operate. ^{GATS}
		CW	1	Under the <i>Life Insurance Act 1995</i> , life insurance agents are prohibited from placing business with foreign insurers.

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris– diction</i>	<i>MoS^g</i>	<i>Limitations on market access</i>
81212	Pension and annuity services	CW	3	<p>Under the <i>Superannuation Industry (Supervision) Act 1993</i>, there are a number of requirements to be a superannuation fund and manage superannuation investments. Any legal entity can be a superannuation fund. However, a superannuation fund that is a regulated and complying superannuation fund receives substantial tax concessions. The income from a regulated and complying superannuation fund is taxed at 15 per cent compared to a non-regulated and non-complying superannuation fund which is taxed at 47 per cent. All complying superannuation funds are regulated funds. The main requirements to become a regulated superannuation fund include:</p> <ul style="list-style-type: none"> • being set up as a trust, with the usual attributes of a trust which include a trustee or trustees, a suitable trust deed (or governing rules), the trust estate (or funds under management) and beneficiaries (or members); • being indefinitely continuing; • being established for the sole purpose of providing superannuation and related benefits; • being a constitutional corporation or trading or financial corporation formed in Australia. The corporation is required to be approved as a trustee; • certification from the APRA; and • subject to ongoing superannuation fund regulation under the <i>Superannuation Industry (Supervision) Act 1993</i> and <i>Superannuation Industry Supervision Regulations</i>. <p>The main requirements to become a complying superannuation fund include:</p> <ul style="list-style-type: none"> • being a regulated superannuation fund; • being a ‘resident regulated superannuation fund’. (A resident regulated superannuation fund is a resident superannuation fund providing superannuation and related benefits; the fund was established in Australia or any asset of the fund is situated in Australia; the central management and control of the fund is in Australia; and fifty per cent of the funds are attributable to residents who are members of the fund.); • not having any contraventions by the trustee of the <i>Superannuation Industry (Supervision) Act 1993</i> or the contraventions were only minor and temporary; and • having a valid notice from the APRA that the superannuation fund is a complying superannuation fund under the <i>Superannuation Industry (Supervision) Act 1993</i>.

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris– diction</i>	<i>MoS^g</i>	<i>Limitations on market access</i>
				Superannuation funds are also required to comply with ongoing regulation. This regulation includes governing rules, investments, equal employer and employee representation, accounting requirements, trustees, actuarial and auditor standards, and public offer requirements.
		CW	3	<p>Approval is required from the APRA to operate an approved deposit fund. Under the <i>Superannuation Industry (Supervision) Act 1993</i>, a fund which receives eligible termination payments or rollover deposits must be approved. Similar tax concessions apply to approved deposit funds as those applying to superannuation funds. The main requirements to be an approved deposit fund include:</p> <ul style="list-style-type: none"> • being indefinitely continuing; • the trustee is a constitutional corporation; • being a complying approved deposit fund — this requires being a resident approved deposit fund, no contraventions of the Act or the contraventions were only minor and temporary; and • being able to comply with the <i>Superannuation Industry (Supervision) Act 1993</i>; and • complying with ongoing regulation which covers governing rules, investments, accounting requirements, trustees, actuarial and auditor standards, and public offer requirements.
		CW	3	<p>Approval from the APRA is required to operate a pool superannuation trust. Under the <i>Superannuation Industry (Supervision) Act 1993</i>, a trust offering superannuation investments in the form of units to the public must be approved. Similar tax concessions apply to pooled superannuation trusts as those applying to superannuation funds. The main requirements to be a pooled superannuation trust include:</p> <ul style="list-style-type: none"> • being a unit trust; • the trustee is a constitutional corporation; • the trustee has been approved by the APRA; • that there are no contraventions of the <i>Superannuation Industry (Supervision) Act 1993</i> or the contraventions were only minor and temporary; • being able to comply with the <i>Superannuation Industry (Supervision) Act 1993</i>; and • complying with ongoing regulation, covering governing rules, investments, accounting requirements,

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris– diction</i>	<i>MoS^g</i>	<i>Limitations on market access</i>
				trustees, actuarial and auditor standards, and public offer requirements.
		CW	3	Under the <i>Retirement Savings Act 1997</i> , a financial institution must be approved by the APRA as a Retirement Savings Account institution in order to provide retirement savings accounts. An authorised deposit-taking institution, authorised life insurance company or a prescribed financial institution may be approved.
		CW	3	Under the <i>Superannuation Industry (Supervision) Act 1993</i> , an investment manager must not appoint or engage a custodian without the trustee’s written consent. The requirements for custodians of superannuation entities include being a body corporate, having sufficient net tangible assets and, possibly, being required to provide an approved guarantee to the superannuation trustee. ¹¹
		CW	3	Under the <i>Superannuation Industry (Supervision) Act 1993</i> , the trustee of a superannuation entity must appoint an investment manager in writing.
		CW	3	Under the <i>Superannuation Industry (Supervision) Act 1993</i> , a trustee, which is a constitutional corporation, must be approved by the APRA. The requirements for trustees of superannuation entities include being a constitutional corporation, having sufficient net tangible assets and being entitled to the benefit of an approved guarantee.
		CW	3	Under the <i>Superannuation Guarantee (Administration) Act 1992</i> , employer contributions must be paid to an approved deposit fund or complying superannuation fund.
		CW	3	Under the <i>Superannuation (Productivity Benefit) Act 1988</i> , the Commonwealth Government may declare a superannuation fund to be approved for the purposes of this Act.
		CW	3	Commonwealth Funds Management Limited, previously Commonwealth Government-owned, is the main funds manager for the Commonwealth’s superannuation schemes. These schemes include the Commonwealth Superannuation Scheme and the Public Sector Superannuation Scheme.
		ACT	3	Commonwealth Funds Management Limited, previously Commonwealth Government-owned, is the main funds manager for the superannuation funds of Australian Capital Territory Government employees. Australian Capital Territory Government employees are members of the Commonwealth superannuation schemes.
		QLD	3	The Queensland Investment Corporation, a Queensland Government corporation, has a monopoly over funds management of Queensland Government superannuation funds. These funds include the QSuper Fund, the Parliamentary Contributory Superannuation Fund and the TAB Superannuation Fund. (The QSuper Fund covers civilian, police and fire employees.) Under the <i>Queensland Investment Corporation Act 1991</i> , the Corporation provides investment, funds management and other financial services to the Queensland Government. The

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				Corporation pays equivalent Commonwealth income tax and equivalent State taxation. The Government may agree to guarantee the Corporation and the Corporation receives all the powers, immunities, privileges, rights and remedies of the State, as a representative of the State. ^{GATS}
		SA	3	The Superannuation Funds Management Corporation, a South Australian Government corporation, has a monopoly over the allocation and investment of the funds of South Australian Government superannuation schemes. These include the Police Superannuation Fund, the South Australian Superannuation Fund, the Southern State Superannuation Fund and other public sector superannuation funds. Under the <i>Superannuation Funds Management Corporation of South Australia Act 1995</i> , the functions of the Superannuation Funds Management Corporation are to invest and manage public sector superannuation funds. The Corporation allocates some superannuation funds to external funds managers and manages some funds internally. All schemes under investment management of the Corporation are exempt from Commonwealth income tax. The legislation governing South Australian Government superannuation schemes also require superannuation funds to be placed with the Corporation.
		TAS	3	The Retirement Benefits Fund Board, a Tasmanian Government agency, manages funds of Tasmanian Government superannuation schemes. Under the <i>Retirement Benefits Act 1993</i> , it is the duty of the Retirement Benefits Fund Board to manage the scheme. Some funds are managed by the Retirement Benefits Fund Board. The Tasmanian Public Finance Corporation manages the cash balances of superannuation funds. Some superannuation benefits of some schemes are guaranteed by the Tasmanian Government.
		VIC	3	VicSuper, a Victorian Government authority, is the main funds manager of Victorian Government Superannuation Funds. These Funds include the Victorian Superannuation Fund and the State Superannuation Fund. Under the <i>Public Sector Superannuation (Administration) Act 1993</i> , VicSuper is required to manage and invest these superannuation fund assets.
		WA	3	The Government Employees' Superannuation Board, a Western Australian Government agency, has a monopoly over the funds management of Western Australian Government superannuation schemes. Under the <i>Government Employees Superannuation Act 1987</i> , the Board is required to maintain and manage the Government Employees' Superannuation Fund. The Government Employees Superannuation Fund is exempt from income tax. The Western Australian Treasury Corporation manages the cash reserves for the Government Employees' Superannuation Fund. The benefits of Western Australian Government superannuation schemes are guaranteed by the Western Australian Government and guarantee fee arrangements apply.
8129	Non-life	CW	3	Authorisation is required from the APRA to carry on the business of general insurance. Under the <i>Insurance Act</i>

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	insurance services			<p>1973, the requirements to be an authorised general insurer include:</p> <ul style="list-style-type: none"> • being a body corporate; • paid-up capital of at least \$2m for companies with a share capital or incorporated in Australia; • assets that exceed liabilities by at least \$2m for companies incorporated in Australia, and Australian assets in excess of Australian liabilities by at least \$2m for any company; and • complying with ongoing regulation, including solvency and capital requirements, and financial management.
		CW	3	Under the <i>Insurance Act 1973</i> , branches of foreign incorporated insurers must be authorised. A body corporate not incorporated in Australia which applies for an authority has some additional application requirements over a locally incorporated subsidiary. These include whether in the preceding five years the applicant has complied with foreign insurance regulation in countries it operated and notification of other applications to carry on insurance business. There is no legal difference between an Australian incorporated insurer and a branch of a foreign incorporated insurer except that branches of foreign incorporated insurers must be represented at all times by a resident and have an address for service of documents in Australia. ^{GATS-P}
		WA	3	Under the <i>Insurance Commission of Western Australia Act 1986</i> , the Insurance Commission of Western Australia, a Western Australian Government business enterprise, has a monopoly over the insurance and risk management services for Western Australian public sector agencies. The Commission collects premiums and manages funds.
81291	Accident and health insurance services	CW	3	Registration by the Commonwealth Government is required to carrying on the business of health insurance. Under the <i>National Health Act 1953</i> , the requirements to be a registered health insurer include: <ul style="list-style-type: none"> • control of the fund by a registered health benefits organisation and meeting the requirements on crediting and debiting amounts to the fund; • being approved by the Government; and • being subject to ongoing supervision.
		CW	3	Under the <i>National Health Act 1953</i> , Government approval is required to merge health benefits funds of registered health benefits organisations.
		CW	3	Comcare, a Commonwealth Government agency, has a monopoly over the provision of workers compensation

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				insurance to Commonwealth Government employers. Under the <i>Safety, Rehabilitation and Compensation Act 1988</i> , Comcare provides workers compensation insurance to the Commonwealth public sector. Comcare collects premiums and manages claims for Commonwealth agencies. Comcare has special licensing arrangements with commercial government entities (Australia Post and Australian Defence Industries), and non-commercial government entities (the Reserve Bank of Australia). Some licenses permit government agencies to self insure, but require Comcare to provide claims management services through a Comcare subsidiary. ^{o GATS}
		ACT	3	Comcare has a monopoly over the provision of workers compensation insurance services to Australian Capital Territory Government agencies. Australian Capital Territory Government employees are covered under the <i>Safety, Rehabilitation and Compensation Act 1988</i> .
		CW	3	Under the <i>Safety, Rehabilitation and Compensation Act 1988</i> and the <i>Military Compensation Act 1988</i> , the Military Compensation and Rehabilitation Service has a monopoly over the administration of workers compensation insurance for the Australian Defence Force.
		CW	3	Under the <i>Seafarers Rehabilitation and Compensation Act 1992</i> , the requirement to provide insurance to a seafarer employer include being an authorised insurer under the <i>Insurance Act 1973</i> , or a State insurer, or a member of a protection and indemnity authority, or a member of an employers mutual indemnity association.
		ACT	3	Under the <i>Workers Compensation Act 1951</i> , insurers must be approved by the Australian Capital Territory Government to provide workers compensation insurance. The requirements to be an approved insurer include payment of an application fee and being approved by the Australian Capital Territory Government for the purposes of the <i>Workers Compensation Act 1951</i> . An approved insurer is unable to charge a premium above a prescribed maximum rate.
		NSW	3	A licence from WorkCover New South Wales is required to provide workers compensation insurance. Under the <i>Workers Compensation Act 1987</i> , the requirements to be a licensed workers compensation insurer include: <ul style="list-style-type: none"> • being incorporated in New South Wales or being a specialised insurer; • payment of an application fee; • having suitable paid-up share capital and memorandum and articles of association; and • establishing statutory funds for workers compensation insurance. <p>In assessing applications, WorkCover New South Wales considers the efficiency of the workers compensation</p>

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				system generally and such other matters as the Authority thinks fit. WorkCover New South Wales also directs how licensed insurers of statutory funds are to invest their monies, including restrictions on investing overseas. ^{GATS}
		NSW	3	The New South Wales Joint Coal Board has a monopoly over the provision of worker’s compensation insurance to the New South Wales coal industry. Under the <i>Coal Industry Act 1946</i> (Commonwealth) and the <i>Coal Industry Act 1946</i> , the Joint Coal Board sets premium rates and collects premiums. The Joint Coal Board is not subject to any taxation.
		NT	3	Approval from the Work Health Authority is required to provide workers compensation insurance. Under the <i>Work Health Act</i> , the requirements to be an approved workers compensation insurer include: <ul style="list-style-type: none"> • being authorised under the <i>Insurance Act 1973</i> (Commonwealth); • providing quality service to employers and claimants; • financial viability; and • being able to provide timely statistical data. <p>The compulsory workers compensation insurance provisions of the <i>Work Health Act</i> require that employers are insured with one of these approved insurers. A Premiums Monitoring Committee monitors and publishes data on the financial performance of the workers compensation insurance scheme.</p>
		QLD	3	WorkCover Queensland has a monopoly over the provision of workers compensation insurance to Queensland employers. Under the <i>WorkCover Queensland Act 1997</i> , WorkCover Queensland sets premiums, manages claims and underwrites the workers compensation insurance scheme. Every WorkCover policy or other insurance contract is guaranteed by the Queensland Government. WorkCover is usually subject to tax equivalents, however, the Queensland Government has agreed to forgo taxes and duties until the workers compensation fund returns to surplus. ^{GATS}
		SA	3	The WorkCover Corporation of South Australia has a monopoly over the provision of workers compensation insurance to South Australian employers. The WorkCover Corporation of South Australia collects levies from South Australian employers. Under the <i>WorkCover Corporation Act 1994</i> , WorkCover is exempt from stamp duty in respect of insurance business and is not required to take out an annual licence under the <i>Stamp Duties Act 1923</i> . Claims agents or insurance companies require approval from the WorkCover Corporation of South Australia to provide claims management services. WorkCover monitors the performance of claims agents. ^{GATS}

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris– diction</i>	<i>MoS^g</i>	<i>Limitations on market access</i>
		TAS	3	<p>A licence from the Government is required to provide workers compensation insurance. Under the <i>Workers Rehabilitation and Compensation Act 1988</i>, the requirements to be a licensed workers compensation insurer include:</p> <ul style="list-style-type: none"> • being authorised under the <i>Insurance Act 1973</i> (Commonwealth); • being financially viable; and • committing sufficient resources to administer workers compensation. <p>Premiums are set by licensed insurers and monitored by a Premiums Monitoring Committee.^{GATS}</p>
		VIC	3	<p>Authorisation from the Victorian WorkCover Authority is required to provide workers compensation insurance. Under the <i>Accident Compensation (Work Cover Insurance) Act 1993</i>, the requirements to be a authorised workers compensation insurer include:</p> <ul style="list-style-type: none"> • being a corporation incorporated in Victoria; • submitting an application to the Victorian WorkCover Authority to be an authorised insurer; • being financially viable; and • suitable memorandum and articles of association. <p>The Victorian WorkCover Authority considers the overall efficiency of the scheme when authorising new insurers. The duration of the licence is for between 12 to 24 months and must be reviewed during or at the end of this period. The WorkCover Authority may place conditions on a licence which may include underwriting a certain amount of business. Premiums are calculated according to a formula.^{GATS-1}</p>
		WA	3	<p>Approval from WorkCover Western Australia is required to provide workers compensation insurance. Under the <i>Workers Compensation and Rehabilitation Act 1981</i>, the requirements to be an approved workers compensation insurer include:</p> <ul style="list-style-type: none"> • being an incorporated company carrying on business in Western Australia under the <i>Insurance Act 1973</i> (Commonwealth); • being financially viable; and • maintaining, in the State, sufficient resources to manage workers compensation business.

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				The Premium Rates Committee determines a minimum premium for approved insurers. An insurer cannot charge a loading of more than 50 per cent of the minimum rate. The borrowings of WorkCover Western Australia are guaranteed by the Western Australian Government. WorkCover Western Australia is funded by a levy on all approved insurers and self-insurers. ^{GATS}
		WA	3	Under the <i>Workers Compensation and Rehabilitation Act 1981</i> , the Insurance Commission of Western Australia has a monopoly over the provision of industrial disease insurance. The Commission collects premiums, manages claims and manages funds.
81292	Motor vehicle insurance services	ACT	3	Under the <i>Motor Traffic Act 1936</i> , an insurance entity is required to be authorised by the Australian Capital Territory Government to provide compulsory third party insurance in the Australian Capital Territory. ^p The Australian Capital Territory Government regulates authorised insurers. An authorised insurer can only exit the compulsory third party insurance market a minimum of three months after giving notice to the Australian Capital Territory Government. ^{GATS}
		NSW	3	A licence from the Motor Accidents Authority is required to provide compulsory third party insurance. Under the <i>Motor Accidents Act 1988</i> , the requirements to be a licensed compulsory third party insurer include: <ul style="list-style-type: none"> • being a corporation authorised under the <i>Insurance Act 1973</i> (Commonwealth); and • payment of an application fee. <p>The Motor Accidents Authority may place conditions on a licence. In granting licenses, the Motor Accidents Authority takes into account the appropriate maximum number of licensed insurers and the efficiency of the motor accidents scheme generally. The Motor Accidents Authority prepares and issues guidelines to licensed insurers for determining compulsory third party insurance premiums. Licensed insurers file compulsory third party insurance premiums annually and the Motor Accidents Authority may accept or reject the premium filed.^{GATS}</p>
		NT	3	The Territory Insurance Office, a Northern Territory Government business enterprise, has a monopoly over the provision of compulsory third party insurance in the Northern Territory. Under the <i>Territory Insurance Office Act</i> , the Territory Insurance Office manages claims and underwrites the compulsory third party insurance scheme of the Motor Accidents Compensation Scheme. The Motor Accidents Compensation Scheme is exempt from Commonwealth and Territory taxes. ^{GATS}
		QLD	3	A licence from the Motor Accident Insurance Commission is required to provide compulsory third party insurance. Under the <i>Motor Accident Insurance Act 1994</i> , the requirements to be a licensed compulsory third

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris– diction</i>	<i>MoS^g</i>	<i>Limitations on market access</i>
				<p>party insurer include:</p> <ul style="list-style-type: none"> • being a body corporate carrying on the business of general insurance in Queensland; • having enough financial and other resources to carry on business as a licensed insurer; and • being in all respects an appropriate corporation to hold a licence. <p>The Motor Accident Insurance Commission also considers whether licensing an applicant would adversely affect the efficiency and effectiveness of the statutory insurance scheme. An insurer whose licence is withdrawn under the Act may not re-apply for a licence within five years after withdrawal. Under <i>Motor Accident Insurance Regulation 1994</i> a number of conditions apply to a licensed compulsory third party insurer. The Motor Accident Insurance Commission must withdraw the licence if the licensed insurer does not, after five years, have and maintain a share of the market for compulsory third party insurance equal to or greater than five per cent. The Motor Accident Insurance Commission need not withdraw the licence where the market share is equal to or greater than 4.5 per cent. Compulsory third party insurance premiums and other levies for each financial year are determined and recommended by the Motor Accident Insurance Commission to the Government. Compulsory third party premiums are the same regardless of the licensed insurer.^{GATS}</p>
		SA	3	<p>Approval from the South Australian Government is required to provide compulsory third party insurance. Under the <i>Motor Vehicles Act 1959</i>, the requirements to be an approved insurer include that the person is carrying on the business of insurance within South Australia. If the applicant is approved, the approval takes effect 1 July in each year following approval. The South Australian Government may place terms and conditions on approved insurers. Approved insurers are only able to exit the market on 1 July of each year. The Motor Accident Commission, a South Australian Government agency, currently has a monopoly over the provision of compulsory third party insurance in South Australia.^{GATS}</p>
		SA	3	<p>The State Government Insurance Office, previously South Australian Government-owned, is contracted by the Motor Accident Commission to provide claims management services. The State Government Insurance Office is also the funds manager of the compulsory third party insurance scheme.</p>
		TAS	3	<p>The Motor Accident Insurance Board, a Tasmanian Government agency, has a monopoly over the provision of compulsory third party insurance in Tasmania. Under the <i>Motor Accidents (Liabilities and Compensation) Act 1973</i>, the Board manages claims and underwrites the compulsory third party insurance scheme. Capital gains tax equivalents, wholesale sale tax equivalents and dividend payments are payable to the Tasmanian Government. Under the <i>Government Business Enterprises Act 1995</i>, the Motor Accident Insurance Board is subject to a State</p>

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris– diction</i>	<i>MoS^g</i>	<i>Limitations on market access</i>
				Government guarantee fee. ^{GATS}
		VIC	3	The Transport Accident Commission, a Victorian Government agency, has a monopoly over the provision of compulsory third party insurance. Under the <i>Transport Accident Commission Act 1986</i> , the Commission manages claims and underwrites the compulsory third party insurance scheme. Some liabilities and expenses of the Commission are guaranteed by the Victorian Government. ^{GATS}
		WA	3	The Insurance Commission of Western Australia, a Western Australian Government business enterprise, has a monopoly over the provision of compulsory third party insurance. Under the <i>Motor Vehicle (Third Party Insurance) Act 1943</i> , no person, other than the Commission, shall issue a compulsory third party insurance policy. The Commission manages claims and funds, and underwrites the compulsory third party insurance scheme. ^{GATS}
81293	Marine, aviation and other transport insurance services			
81294	Freight insurance services			
81295	Fire and other property damage insurance services			
81296	Pecuniary loss insurance services			
81297	General liability insurance services			
81299	Other insurance services nec	SA	3	The South Australian Government Captive Insurance Corporation, a South Australian Government agency, has a monopoly over the provision of insurance services to the South Australian public sector. Under the <i>Public Corporations (Treasurer) Regulations 1994</i> , the Corporation underwrites, manages claims and provides risk management advice to the South Australian public sector. The Corporation is exempt from some taxation.

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris– diction</i>	<i>MoS^g</i>	<i>Limitations on market access</i>
		VIC	3	The Victorian Managed Insurance Authority, a Victorian Government agency, has a monopoly over the provision of insurance services to the Victorian public sector. Under the <i>Victorian Managed Insurance Authority Act 1996</i> , the Authority assists departments and agencies to manage and monitor risks, act as an insurer and provides insurance services. Income and other taxes (with the exception of Fringe Benefits Tax) are not payable by the Authority. The liabilities and expenses of the Authority are guaranteed by the Victorian Government.
813	Services auxiliary to financial intermediation, other than to insurance and pension funding			
8131	Services related to the administration of financial markets	CW	3	Approval from the ASIC is required to establish a stock exchange. ⁹ Under the <i>Corporations Law</i> , the requirements to be a stock exchange include: <ul style="list-style-type: none"> • being a body corporate; • having satisfactory business and listing rules; • having sufficient funds in the exchanges' fidelity fund; and • demonstrating that the exchange is in the public interest. Application may be made as an approved securities organisation and similar requirements apply as those applying to a stock exchange.
		CW	3	Approval from the ASIC is required to establish a futures exchange. ⁸ Under the <i>Corporations Law</i> , the requirements to be a futures exchange include: <ul style="list-style-type: none"> • being a body corporate; • having satisfactory business and listing rules; • having sufficient funds in the exchanges' fidelity fund; and • demonstrating that the exchange is in the public interest.

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris– diction</i>	<i>MoS^g</i>	<i>Limitations on market access</i>
		CW	2	Government approval of foreign futures exchanges is required to permit Australian futures brokers to trade on foreign exchanges on behalf of Australian citizens. Under the <i>Corporations Law</i> , a foreign futures exchange must be a body corporate and recognised by the Government.
		CW	3	Government approval is required to provide clearing house facilities for a securities market. ^f Under the <i>Corporations Law</i> , a body corporate that proposes to provide securities clearing house facilities for a securities exchange may apply to the ASIC for approval by the Government. The Government may approve the clearing house if the business rules are satisfactory and it is in the public interest.
		CW	3	Government approval is required to provide clearing house facilities for a futures market. ^s Under the <i>Corporations Law</i> , a body corporate that proposes to provide clearing house facilities for a futures exchange may apply to the ASIC for approval by the Government. The Government may approve the clearing house if the business rules are satisfactory and it is in the public interest.
81311	Financial market operational services			
81312	Financial market regulatory services			
81319	Other market administration services			
8132	Services related to securities markets			
81321	Securities broking services	CW	3	Under the <i>Corporations Law</i> , a person must be licensed by the ASIC to be a futures broker dealing in a futures contract on another person's behalf or carrying on a futures broking business. ^s The main requirements for a person to be a licensed futures adviser or to carry on a futures advice business include that a person: <ul style="list-style-type: none"> • is solvent; • has suitable educational qualifications;

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris– diction</i>	<i>MoS^g</i>	<i>Limitations on market access</i>
				<ul style="list-style-type: none"> • is of good fame and character and the person will perform duties efficiently, honestly and fairly; and • will comply with ongoing disclosure requirements to clients relating to futures contracts. <p>The main requirements for a corporation to be a licensed futures adviser or to carry on a futures advice business include that the:</p> <ul style="list-style-type: none"> • corporation is not externally-administered; • responsible officer of the corporation has suitable educational qualifications; • corporation will perform duties efficiently, honestly and fairly; and • business will comply with ongoing disclosure requirements to clients relating to futures contracts. <p>Where the application is for a futures brokers licence, the person must be a member of a futures organisation. A licence may be subject to conditions in relation to assets, liabilities and supervision of representatives. Futures brokers and futures advisers may appoint a representative to carry on business. A body corporate may not act as a representative.</p>
		CW	3	<p>Under the <i>Corporations Law</i>, a person must be licensed to carry on a securities business, that is, the business of dealing in securities.^u A person must be licensed to carry on an investment advice business, that is, a business of advising other persons about securities or a business in the course of which the person publishes securities reports. The main requirements for a person to be granted a dealer’s licence or investment adviser’s licence include that the person:</p> <ul style="list-style-type: none"> • is solvent; • has suitable educational qualifications; • is of good fame and character and the person will perform duties efficiently, honestly and fairly; and • will comply with ongoing disclosure requirements to clients relating to conflicts of interest and commissions. <p>The main requirements for a corporation to be granted a dealer’s licence or investment adviser’s licence include that the:</p> <ul style="list-style-type: none"> • corporation is not externally-administered;

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris– diction</i>	<i>MoS^g</i>	<i>Limitations on market access</i>
				<ul style="list-style-type: none"> • responsible officer of the corporation has suitable educational qualifications; • corporation will perform duties efficiently, honestly and fairly; and • corporation will comply with ongoing disclosure requirements to clients relating to conflicts of interest and commissions. <p>A licence may be subject to conditions. Dealers and investment advisers may appoint a representative or grant a proper authority to carry on the business. A body corporate may not act as a representative.</p>
81322	Securities issue and registration services			
81323	Portfolio management services			
81329	Other services related to securities markets	CW	3	Under the <i>Corporations Law</i> , a body corporate that proposes to be a futures association may apply to the ASIC for approval by the Government. The Government must be satisfied that the futures association will properly exercise its functions, it has satisfactory business rules and it is in the public interest.
8133	Other services auxiliary to financial intermediation			
81331	Loan broking service			
81332	Financial consultancy services (except bank, insurance and pension fund services)			

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris– diction</i>	<i>MoS^g</i>	<i>Limitations on market access</i>
81333	Foreign exchange services (except bank)	CW	3	<p>Under the <i>Banking (Foreign Exchange) Regulations</i>, dealers in foreign exchange require authorisation from the Reserve Bank of Australia. The requirements to be an authorised foreign exchange dealer include:</p> <ul style="list-style-type: none"> • a minimum level of shareholders funds of \$10m; • demonstrated capacity and expertise to carry out foreign exchange dealings; and • meeting certain conditions relating to observance of prudential standards, provision of statistical information and maintenance of acceptable operating standards. <p>An authorised foreign exchange dealer may appoint agents (or dealers) to deal in foreign exchange. (Exemptions to the <i>Banking (Foreign Exchange) Regulations</i> permit the exchange of foreign currency up to \$AUD2000 per transaction.)^{GATS}</p>
81334	Coin and currency packing services			
81339	Other services auxiliary to financial intermediation nec	CW	3	Under the <i>Cheques and Payments Order Act 1986</i> , only banks can issue cheques in their own name. ^t
814 8140	Services auxiliary to insurance and pension funding	CW	3	Commonwealth Superannuation Administration (ComSuper), a Commonwealth Government agency, has a monopoly over the administration of Commonwealth Government superannuation schemes. ComSuper is the superannuation administrator of the Commonwealth Superannuation Scheme, the Public Sector Superannuation Scheme, the Defence Force Retirement Benefits Scheme, the Defence Force Retirement and Death Benefits Scheme and the Military Superannuation and Benefits Scheme. The responsible Boards of Trustees of Commonwealth schemes have delegated the general administrative powers and functions to ComSuper.
		ACT	3	Commonwealth Superannuation Administration (ComSuper), a Commonwealth Government agency, has a monopoly over the administration of the superannuation for Australian Capital Territory Government employees. Australian Capital Territory Government employees are members of Commonwealth superannuation schemes.
		NSW	3	The Superannuation Administration Authority of New South Wales, a New South Wales Government agency, has a monopoly over the superannuation administration of New South Wales superannuation schemes. These

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris– diction</i>	<i>MoS^g</i>	<i>Limitations on market access</i>
				schemes include the State Authorities Superannuation Scheme, the State Superannuation Scheme, the Police Superannuation Scheme, the State Authorities Non-contributory Superannuation Scheme, the First State Superannuation Scheme and the Public Sector Executives Superannuation Scheme. The Superannuation Administration Authority of New South Wales is contracted by the relevant Trustees to administer these schemes.
		QLD	3	The Government Superannuation Office, a Queensland Government agency, has a monopoly over the administration of Queensland Government superannuation schemes. These schemes include the Q Super Plans, Parliamentary Contributory Superannuation Scheme and the Q Invest Retirement Fund.
		NT		The Northern Territory Superannuation Office, a Northern Territory Government agency, has a monopoly over the administration of the Northern Territory Government and Public Authorities Superannuation Scheme. Under the <i>Superannuation Act</i> , the Northern Territory Superannuation Office is responsible for administering the Northern Territory Government and Public Authorities superannuation scheme.
		SA	3	The State Superannuation Office, a South Australian Government agency, has a monopoly over the administration of South Australian Government superannuation schemes. These schemes include the State Pension Scheme, the State Lump Sum Scheme, the State Superannuation Benefits Scheme and the Southern State Superannuation Scheme. The State Superannuation Office is contracted by the South Australian Superannuation Board to provide administration services.
		TAS	3	The Retirement Benefits Fund Board, a Tasmanian Government agency, has a monopoly over the administration of the Tasmanian Government superannuation scheme. Under the <i>Retirement Benefits Act 1993</i> , it is the duty of the Retirement Benefits Fund Board to administer and manage the Retirement Benefits Fund Scheme.
		VIC	3	The Local Authorities Superannuation Board administers the Local Authorities Superannuation Plan. Under the <i>Local Authorities Superannuation Act 1988</i> , it is the duty of the Local Authorities Superannuation Board to administer the Local Authorities Superannuation Scheme.
		VIC	3	VicSuper, a Victorian Government agency, has a monopoly over the administration of Victorian Government superannuation schemes. These schemes include the VicSuper Scheme, the VicSuper Top-up Scheme, the VicSuper Beneficiary Account, the Revised Scheme, the New Scheme, the Transport Scheme, the State Employees the Retirement Benefits Scheme, the Metropolitan Transit Authority Superannuation Scheme and the Parliamentary Contributory Superannuation Fund. Under the <i>Public Sector Superannuation (Administration) Act 1993</i> , VicSuper is required to administer these superannuation schemes.
		WA	3	The Government Employees' Superannuation Board, a Western Australian Government agency, has a monopoly

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris– diction</i>	<i>MoS^g</i>	<i>Limitations on market access</i>
				over the administration of Western Australian Government superannuation schemes. These schemes include the Gold State Super Scheme, the West State Super Scheme and the Pension Scheme. Under the <i>Government Employees Superannuation Act 1987</i> , the Board is required to administer superannuation schemes of the Western Australian Government. The Western Australian Government guarantees all obligations and guarantee fee arrangements apply.
81401	Insurance broking and agency services	CW	4	Under the <i>Insurance (Agents and Brokers) Act 1984</i> , insurance brokers and foreign insurance agents must be registered with the ASIC. General insurance intermediaries may not place business with foreign insurers — insurers falling outside the Australian supervisory regime — unless they are a registered broker or foreign insurance agent.
		CW	4	Under the <i>Insurance (Agents and Brokers) Act 1984</i> , agents of unauthorised foreign insurers must be registered with the ASIC.
81402	Insurance and pension consultancy services			
81403	Average and loss adjustment services			
81404	Actuarial services	CW	4	Under the <i>Insurance Act 1973</i> , actuaries for general insurance are restricted to being Australian residents and Fellows of The Institute of Actuaries of Australia. The APRA may approve a person who is not a Fellow of The Institute of Actuaries of Australia to be an actuary for the purposes of the <i>Insurance Act 1973</i> .
		CW	4	Under the <i>Life Insurance Act 1995</i> , actuaries of life insurance companies are restricted to being Australian residents and Fellows of The Institute of Actuaries of Australia for five years. The APRA may approve the appointment of another person as actuary of a life insurance company.
81405	Salvage administration services			
81409	Other services auxiliary to			

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris– diction</i>	<i>MoS^g</i>	<i>Limitations on market access</i>
	insurance and pension funding			

nec - not elsewhere classified

- a The Appendix includes all *identified* measures. Other measures may apply to financial services.
- b The listed measures are imposed by the relevant government for their jurisdiction. The Commonwealth Government measures apply throughout Australia according to its constitutional powers. The State and Territory measures apply within the relevant State and Territory boundaries and according to their constitutional powers. Jurisdictions to which measures apply are abbreviated in the schedule. The abbreviations for each jurisdiction are as follows: CW — Commonwealth, ACT — Australian Capital Territory, NSW — New South Wales, NT — the Northern Territory, QLD — Queensland, SA — South Australia, TAS — Tasmania, VIC — Victoria and WA — Western Australia.
- c Some restrictions are being reviewed as part of financial system and National Competition Policy reforms.
- d Legislation to implement reforms covering financial markets and products — licensing and regulation of exchanges, clearing and settlement facilities, financial market dealers and advisers, disclosure and market conduct — will be released later in 1998 (Costello 1998b).
- e Some public sector superannuation schemes are exempt from Commonwealth legislation and prudential regulation. Under the *Superannuation Industry (Supervision) Act 1993*, a Heads of Government Agreement between the Commonwealth, States and Territories provides exemption for some public sector schemes from the provisions of the *Superannuation Industry (Supervision) Act 1993*. The exempt schemes have agreed to comply with the spirit and intent of the *Superannuation Industry (Supervision) Act 1993*.
- f Two, three, four and five digit United Nations Central Product Classifications (CPCs).
- g MoS means mode of supply. The modes of supply are: 1. Cross-border supply; 2. Consumption abroad; 3. Commercial presence; and 4. Temporary movement of natural persons.
- h The APRA will be harmonising prudential requirements across all deposit-taking institutions. Existing prudential guidelines continue in force. The existing guideline for banking is Prudential Statement J1 — Application for a Banking Authority Locally Incorporated Banks (RBA 1996). Under this Statement, banks must be authorised to carry on the business of banking. The existing entry requirements include: being a locally incorporated entity; an expectation that applicants will make a worthwhile contribution to banking services in Australia; a minimum Tier 1 capital of \$50m; a wide dispersion of ownership; and complying with ongoing regulation covering capital adequacy requirements, liquidity management, large credit risk exposure and foreign currency exposure. A foreign bank must meet additional requirements which include a description of supervisory arrangements in its home country; and a statement from its home country supervisor that the foreign bank is of good financial standing and that it consents to the establishment of a bank subsidiary in Australia; and is supervised on a consolidated basis. The prudential statement applies only to banks.
- i The responsibility for licensing and prudential regulation of building societies and credit unions will be transferred to the Commonwealth (Costello 1998b). State and Territory governments are currently responsible for supervising non-bank financial institutions which include building societies and credit unions. The APRA will be responsible for their supervision.
- j The existing guideline for foreign bank branches is Prudential Statement J2 — Application for a Banking Authority Foreign Bank Branches. Under this Statement, banks must be authorised to carry on the business of a foreign bank branch (RBA 1996). The requirements to be a foreign bank branch include: being incorporated and recognised under the laws of the home country; an expectation that applicants will make a worthwhile contribution to banking services in Australia; a wide dispersion of ownership of the foreign bank parent; support from the home supervisor in the supervision of the branch; and complying with ongoing regulation. A foreign bank branch is restricted to accepting wholesale deposits or deposits greater than \$250,000. Foreign banks with branch and subsidiary operations must keep their operations separate. All non-banking subsidiaries of a foreign bank in Australia, which engage in deposit-taking in Australia, must be subsidiaries of a locally incorporated bank.

- k Some of the Reserve Bank of Australia's financial services — provision of bank accounts, payment and revenue collection processing and financial information services — will be open to competition. Commonwealth departments and agencies will be able to choose their provider of certain financial services from 1 July 1999 (Fahey 1998).
- l The Tax Equivalent Regime is the application of equivalent Commonwealth taxation legislation to state and territory government business enterprises.
- m *CPC 81321 - Securities and broking services* covers the requirements to hold a dealers licence.
- n Superannuation entities include superannuation funds, approved deposit funds and pooled superannuation trusts.
- o Comcare is expected to be the sole provider of claims management services until 1 January 2000 (Reith 1998).
- p Compulsory third party insurance may be known as motor accident bodily injury insurance in some other countries.
- q As part of implementing the recommendations of the Financial System Inquiry, this measure will be reformed. A licence to operate a financial market will be required if a person proposes to operate a market facility where financial instruments are regularly traded and the market involves regular buyers and sellers. The proposed licensing requirements for a market facility include: adequate arrangements for the supervision of the market; adequate rules and procedures for the operation of the market; adequate arrangements for clearing and settlement of transactions; and adequate protection for retail investors. The proposed legislation will set out ongoing obligations which will be imposed on a market operator to ensure that the objectives of market regulation are satisfied on a continuing basis (Treasury 1997).
- r As part of implementing the recommendations of the Financial System Inquiry, this measure will be reformed. The proposed new arrangements require a licence to operate a clearing and settlement facility where the clearing and settlement services are not conducted by a licensed market operator (or exchange). The proposed licensing requirements for a clearing and settlement facility include: adequate rules or procedures for the operation of the facility; adequate arrangements for the supervision of the facility; maintaining sufficient resources to conduct the facility; and perform supervisory functions. The proposed legislation will impose ongoing obligations on clearing and settlement facility providers to ensure that the objectives of market regulation are satisfied on a continuing basis (Treasury 1997).
- s As part of implementing the recommendations of the Financial System Inquiry, the licensing of futures brokers and securities businesses will be reformed. A single licensing regime will be introduced for financial markets dealers and advisers. The proposed licensing requirements for an intermediary include: adequate financial resources for the performance of the proposed activities; competence, skills and experience to provide the relevant services; and conducting their business honestly, efficiently and fairly. A principal will be licensed with the ability for the principal to appoint agents or representatives to conduct their business. Conditions will be imposed on a financial intermediary's licence to ensure that the objectives of market regulation are satisfied on a continuing basis (Treasury 1997).
- t Amendments to the *Cheques and Payment Orders Act 1986* will allow building societies, credit unions and their industry special service providers to issue cheques in their own name from 1 December 1998 (Campbell 1998).

GATS	This measure is included in Australia's GATS schedule for financial services. This Appendix provides more detail than the GATS schedule.
GATS-I	This measure is incorrectly included in Australia's GATS schedule for financial services.
GATS-P	Part of this measure is included in Australia's GATS schedule for financial services.
GATS-PFSI	Part of this measure is included in Australia's GATS schedule for financial services, but reflects the arrangements prior to the implementation of the Financial System Inquiry reforms.

Source: Commonwealth, State and Territory legislation (various), Guides to legislation (various) and Annual Reports (various).

Appendix B: Australia's limitations on national treatment for financial services^{abcde}

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris- diction</i>	<i>MoS^g</i>	<i>Limitations on national treatment</i>
81	Financial Intermediation Services and Auxiliary Services			
811	Financial intermediation services, except insurance and pension fund services	CW	3	Liabilities of the Commonwealth Bank, previously Commonwealth Government-owned, have transitional guarantee arrangements. Under the <i>Commonwealth Banks Act 1959</i> , liabilities of the Commonwealth Bank are guaranteed by the Commonwealth. This guarantee is gradually being phased out. The length of time the guarantee applies depends on the characteristic of the liability. ^{GATS-GB}
		CW	3	The Commonwealth Bank operates in any Australian jurisdiction without registering its name in the relevant jurisdiction. Under the <i>Commonwealth Banks Act 1959</i> , the Commonwealth Bank operates under a protected name. ^h
		CW	3	Liabilities of the former Australian Industry Development Corporation (AIDC), previously Commonwealth Government-owned, have transitional guarantee arrangements. Under the <i>AIDC Sale Act 1997</i> , liabilities of the former AIDC are guaranteed by the Commonwealth. This guarantee is gradually being phased-out. The liabilities are owned by UBS Australia Ltd. ^{GATS-GB}
		NSW	3	Liabilities of the former State Bank of New South Wales, previously New South Wales Government-owned, have transitional guarantee arrangements. Under the <i>State Bank (Privatisation) Act 1994</i> , liabilities of the former State Bank of New South Wales are guaranteed by the New South Wales Government. This guarantee is gradually being phased-out. The length of time the guarantee applies depends on the characteristic of the liability. The liabilities of the former State Bank of New South Wales are owned by Colonial Mutual. ^{GATS-GB}
		QLD	3	Liabilities of the Suncorp-Metway banking business, majority owned by the Queensland Government, have transitional guarantee arrangements. Under the <i>State Financial Institutions and Metway Merger Facilitation Act 1996</i> , liabilities (other than insurance) of Metway Bank and the Queensland Industry Development Corporation before the Metway Bank and Suncorp Insurance and Finance merger are guaranteed by the Queensland Government. This guarantee is gradually being phased-out. The length of time the guarantee applies depends on the characteristic of the liability. The Queensland Government applies a guarantee fee of 0.05 per cent for guaranteed liabilities due and payable within one year and a guarantee fee of 0.20 per cent for guaranteed

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris- diction</i>	<i>MoS^g</i>	<i>Limitations on national treatment</i>
				liabilities due and payable after one year. ^{i GATS-GB}
		SA	3	Liabilities of BankSA, previously South Australian Government-owned, have transitional guarantee arrangements. Under the <i>Bank Merger (BankSA and Advance Bank) Act 1996</i> , liabilities of BankSA are guaranteed by the South Australian Government. This guarantee is gradually being phased-out. The length of time the guarantee applies depends on the characteristic of the liability. Generally, the guarantee is in force until 1 July 1999. ^{GATS-GB}
		TAS	4	The provisions of the <i>Trust Bank (Corporatisation) Act 1997</i> require that at least a majority of the directors of the Trust Bank be resident in Tasmania and that policy and control of the Trust Bank be exercised in Tasmania. ^{GATS}
		WA	3	Liabilities of BankWest, previously Western Australian Government-owned, have transitional guarantee arrangements. Under the <i>Bank of Western Australia Act 1995</i> , liabilities of BankWest are guaranteed by the Western Australian Government. This guarantee is gradually being phased-out. The length of time the guarantee applies depends on the characteristic of the liability. The Western Australian Government may impose a debt guarantee fee on BankWest. ^{GATS-GB}
8111	Services of monetary intermediaries			
81111	Central bank deposit services			
81112	Central bank supervisory services			
81113	Central bank reserve management services			
81114	Central bank currency issue services			
81115	Wholesale deposit services			

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris- diction</i>	<i>MoS^g</i>	<i>Limitations on national treatment</i>
81116	Other bank deposit services			
81117	Non-central bank currency issue services			
81119	Other deposit services of monetary intermediaries			
8112	Financial leasing services (except insurance and pension fund services)			
81120				
8113	Other credit granting services			
81131	Mortgage loan services (except insurance and pension fund services)			
81132	Personal instalment loan services (except insurance and pension fund services)			
81133	Credit card services			
81139	Other credit	CW	3	The Export Finance and Insurance Corporation (EFIC), a Commonwealth Government corporation, may have

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris- diction</i>	<i>MoS^g</i>	<i>Limitations on national treatment</i>
	services			competitive benefits from its Commonwealth Government ownership. The EFIC provides lending services to exporters. Under the <i>Export Finance and Insurance Corporation Act 1991</i> , the Commonwealth Government association allows the EFIC to provide lending services to clients on terms and conditions better than those provided in a commercial market. The Commonwealth may lend money to the EFIC on terms better than those that are available commercially. The EFIC is not subject to taxation under any law of the Commonwealth, States and/or Territories. The Commonwealth may pay a subsidy to the EFIC.
8119	Other financial intermediation services other than insurance and pension fund services			
81191	Closed-end investment trust services			
81192	Property unit trust services			
81193	Open-ended unit trust services			
81199	Intermediation service nec			
812	Insurance (including reinsurance) and pension fund services, except compulsory social security services	WA	3	Under some Western Australian legislation the Insurance Commission of Western Australia, a Western Australian Government business enterprise, is able to provide insurance services without State Government approval and/or without being authorised under Commonwealth insurance legislation. This legislation includes the <i>Housing Loan Guarantee Act 1957</i> and <i>Legal Contribution Trust Act 1967</i> .
		QLD	3	Liabilities of the Suncorp-Metway insurance business, majority owned by the Queensland Government, have transitional guarantee arrangements. Under the <i>State Financial Institutions and Metway Merger Facilitation Act</i>

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris- diction</i>	<i>MoS^g</i>	<i>Limitations on national treatment</i>
				<i>1996</i> , policies or contracts of insurance or indemnity issued before the Metway Bank and Suncorp Insurance and Finance merger are guaranteed by the State Government. The length of time the guarantee applies depends on the characteristic of the liability. The Queensland Government applies a guarantee fee of 0.05 per cent for guaranteed liabilities due and payable within one year and a guarantee fee of 0.20 per cent for guaranteed liabilities due and payable after one year. ^{i GATS-GI}
		SA	3	Liabilities of the State Government Insurance Office, previously South Australian Government-owned, have transitional guarantee arrangements. Under the <i>SGIC (Sale) Act 1995</i> , liabilities of the State Government Insurance Office are guaranteed by the South Australian Government. The length of time the guarantee applies depends on the characteristic of the liability. Liabilities are guaranteed for a period up to six years after sale. The State Government Insurance Office is owned by SGIO Insurance Limited.
		SA	3	Under the <i>Motor Accident Commission Act 1992</i> , liabilities of the Motor Accident Commission, a South Australian Government agency, other than those of the compulsory third party insurance scheme, are guaranteed by the South Australian Government. The insurance business guarantee includes inwards reinsurance, financial risk insurance and mortgage insurance. ^{GATS-GI}
		WA	3	Under the <i>Insurance Commission Western Australia Act 1986</i> , obligations of the Commission may be guaranteed by the Western Australian Government. The Tax Equivalent Regime applies to the Commission.
8121	Life insurance and pension fund services			
81211	Life insurance services			
81212	Pension and annuity services	CW	3	Liabilities of the superannuation schemes of the Commonwealth Bank, previously Commonwealth Government-owned, have transitional guarantee arrangements. Under the <i>Commonwealth Banks Act 1959</i> , the Commonwealth guarantees past, present and future liabilities of the Commonwealth Bank's superannuation schemes for staff who were members of the scheme before privatisation. ^{GATS-GB}
8129	Non-life insurance services	CW	3	Some general insurance companies are exempt from the <i>Insurance Act 1973</i> . The <i>Insurance Act 1973</i> does not apply to State insurance business and specified insurance companies. The specified insurance companies include the Export Finance and Insurance Corporation, Defence Homes Corporation, Joint Coal Board, Coal Mines Insurance Pty Limited and Motor Vehicle Insurance Trust of Western Australia.
81291	Accident and health insurance	CW	3	Liabilities of Medibank Private, a Commonwealth Government agency, may be guaranteed by the Commonwealth Government. Under the <i>Health Insurance Commission Act 1973</i> , the Health Insurance Commission may borrow

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris- diction</i>	<i>MoS^g</i>	<i>Limitations on national treatment</i>
	services			on behalf of Medibank Private. The Health Insurance Commission may provide security over amounts borrowed and interest, and the Commonwealth may provide guarantees on these amounts. Under the <i>Commonwealth Borrowing Levy Act 1987</i> , the Commonwealth imposes a 0.5 per cent debt guarantee fee on the Health Insurance Commission.
		NT	3	Under the <i>Work Health Act</i> , the Territory Insurance Office is considered to be an insurer for the purposes of the Act, even though it is not authorised under the <i>Insurance Act 1973</i> (Commonwealth).
		NT	3	Liabilities of the Territory Insurance Office, a Northern Territory government business enterprise, are guaranteed by the Northern Territory Government. Under the <i>Territory Insurance Office Act</i> , every policy, contract of insurance, indemnity and other liabilities of the Territory Insurance Office are guaranteed by the Northern Territory Government. ^{GATS-GI}
81292	Motor vehicle insurance services			
81293	Marine, aviation and other transport insurance services			
81294	Freight insurance services			
81295	Fire and other property damage insurance services			
81296	Pecuniary loss insurance services			
81297	General liability insurance services			
81299	Other insurance services nec	CW	3	Liabilities of the Housing Loans Insurance Corporation, previously Commonwealth Government-owned, have transitional guarantee arrangements. Under the <i>Housing Loans Insurance Corporation (Transfer of Assets and Abolition) Act 1996</i> , the Commonwealth guarantees the insurance obligations of the Housing Loans Insurance Corporation Limited for loans insured up to the date of sale.

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris- diction</i>	<i>MoS^g</i>	<i>Limitations on national treatment</i>
		CW	3	The Export Finance and Insurance Corporation (EFIC), a Commonwealth Government corporation, may have competitive benefits from its Commonwealth Government ownership. The EFIC provides insurance services to exporters. Under the <i>Export Finance and Insurance Corporation Act 1991</i> , the Commonwealth Government association allows the EFIC to provide insurance services to clients on terms and conditions better than those provided in a commercial market. The Commonwealth may lend money to the EFIC on terms better than those that are available commercially. The EFIC is not subject to taxation under any law of the Commonwealth, States and/or Territories. The Commonwealth may pay a subsidy to the EFIC.
813	Services auxiliary to financial intermediation, other than to insurance and pension funding			
8131	Services related to the administration of financial markets			
81311	Financial market operational services			
81312	Financial market regulatory services			
81319	Other market administration services			
8132	Services related to securities markets			
81321	Securities broking services			

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris- diction</i>	<i>MoS^g</i>	<i>Limitations on national treatment</i>
81322	Securities issue and registration services			
81323	Portfolio management services			
81329	Other services related to securities markets			
8133	Other services auxiliary to financial intermediation			
81331	Loan broking service			
81332	Financial consultancy services (except bank, insurance and pension fund services)			
81333	Foreign exchange services (except bank)			
81334	Coin and currency packing services			
81339	Other services auxiliary to financial			

<i>CPC^f</i>	<i>CPC Description</i>	<i>Juris- diction</i>	<i>MoS^g</i>	<i>Limitations on national treatment</i>
	intermediation nec			
814	Services			
8140	auxiliary to insurance and pension funding			
81401	Insurance broking and agency services	CW	3	The <i>Insurance Contracts Act 1984</i> does not apply to insurance contracts of the Export Finance and Insurance Corporation, contracts relating to State and Territory insurance, and State and Territory insurance business.
		CW	3	The <i>Insurance (Agents and Brokers) Act 1984</i> does not apply to State and Northern Territory insurance, insurance contracts involving a State or the Northern Territory Government and an insurance contract involving the Export Finance and Insurance Corporation.
81402	Insurance and pension consultancy services	CW	3	Greater disclosure is required to clients on insurance policies provided by foreign insurers. Under the <i>Insurance (Agents and Brokers) Act 1984</i> , increased disclosure is required to clients where the insurance policy is with a foreigner insurer. This allows the client to be aware that the insurance contract may not be subject to Australian laws with respect to disputes, claims or insurer solvency requirements.
81403	Average and loss adjustment services			
81404	Actuarial services			
81405	Salvage administration services			
81409	Other services auxiliary to insurance and pension funding			

nec - not elsewhere classified

- a This Appendix includes all *identified* measures. Other measures may apply to financial services.
- b The listed measures are imposed by the relevant government for their jurisdiction. The Commonwealth Government measures apply throughout Australia according to its constitutional powers. The State and Territory measures apply within the relevant State and Territory boundaries and according to their constitutional powers. Jurisdictions to which measures apply are abbreviated in the schedule. The abbreviations for each jurisdiction are as follows: CW — Commonwealth, ACT — Australian Capital Territory, NSW — New South Wales, NT — the Northern Territory, QLD — Queensland, SA — South Australia, TAS — Tasmania, VIC — Victoria and WA — Western Australia.
- c Some measures are being reviewed as part of financial system and National Competition Policy reforms.
- d Legislation to implement reforms covering financial markets and products — licensing and regulation of exchanges, clearing and settlement facilities, financial market dealers and advisers, disclosure and market conduct — will be released later in 1998 (Costello 1998b).
- e Some public sector superannuation schemes are exempt from Commonwealth legislation and prudential regulation. Under the *Superannuation Industry (Supervision) Act 1993*, a Heads of Government Agreement between the Commonwealth, States and Territories provides exemption for some public sector schemes from the provisions of the *Superannuation Industry (Supervision) Act 1993*. The exempt schemes have agreed to comply with the spirit and intent of the *Superannuation Industry (Supervision) Act 1993*.
- f Two, three, four and five digit United Nations Central Product Classifications (CPCs).
- g MoS means mode of supply. The modes of supply are: 1. Cross-border supply; 2. Consumption abroad; 3. Commercial presence; and 4. Temporary movement of natural persons.
- h The use of the word 'Commonwealth' may also confer certain benefits.
- i The Queensland Government is selling its remaining shareholding in Suncorp-Metway (Hamill 1998).

GATS This measure is included in Australia's GATS schedule for financial services. This Appendix provides more detail than the GATS schedule.

GATS-GB This measure is included in Australia's GATS schedule for financial services and generically covers all State and Territory government guarantees of previously government-owned banks.

GATS-GI This measure is included in Australia's schedule for financial services and generically covers all State and Territory government guarantees of government-owned insurance offices.

Source: Commonwealth, State and Territory legislation (various), Guides to legislation (various) and Annual Reports (various).

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