ANNEX III

SCHEDULE OF HONG KONG, CHINA[1]
(Financial Services)

EXPLANATORY NOTES

1. The Schedule sets out, pursuant to Article 9.9 (Non-Conforming Measures) of Chapter 9 (Financial Services):

(a) introductory notes that limit or clarify the commitments of Hong Kong, China with respect to the obligations described in subparagraph (b) and subparagraph (c) below;

(b) in **Section A**, Hong Kong, China's existing measures with respect to sectors or sub-sectors that are not subject to the following obligations:

(i) Article 9.3 (National Treatment);

(ii) Article 9.4 (Most-Favoured-Nation Treatment);

(iii) Article 9.5 (Market Access for Financial Institutions);

(iv) Article 9.6 (Cross-Border Trade); or

(v) Article 9.8 (Senior Management and Boards of Directors); and

(c) in **Section B**, the specific sectors, sub-sectors or activities for which Hong Kong, China may maintain existing, or adopt new or more restrictive, measures that do not conform with the following obligations:

(i) Article 9.3 (National Treatment);

(ii) Article 9.4 (Most-Favoured-Nation Treatment);

(iii) Article 9.5 (Market Access for Financial Institutions);

(iv) Article 9.6 (Cross-Border Trade); or

(v) Article 9.8 (Senior Management and Boards of Directors).

2. Each Schedule entry in **Section A** sets out the following elements:

[1] In case of discrepancy or divergence between the authentic texts, the English text of this Schedule shall prevail.

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

(b) **Sub-Sector**, where referenced, refers to the specific sub-sector for which the entry is made;

(c) **Obligations Concerned** specifies the obligations referred to in paragraph 1(b) that, pursuant to Article 9.9.1(a) (Non-Conforming Measures), do not apply to the listed measures for the sectors or sub-sectors pursuant to paragraph 4;

(d) **Measures** identifies the laws, regulations or other measures for which the entry is made. A measure cited in the **Measures** element:

(i) means the measure as amended, continued or renewed as of the date of entry into force of the Agreement; and

(ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and

(e) **Description** sets out the non-conforming measure for which the entry is made.

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

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

(b) **Sub-Sector**, where referenced, refers to the specific sub-sector for which the entry is made;

(c) **Obligations Concerned** specifies the obligations referred to in paragraph 1(c) that, pursuant to Article 9.9.2 (Non-Conforming Measures), do not apply to the sectors, sub-sectors or activities covered by the entry pursuant to paragraph 5; and

(d) **Description** sets out the scope or nature of the sectors, sub-sectors or activities covered by the entry to which the reservation applies.

4. For Section A, in accordance with Article 9.9.1(a) (Non-Conforming Measures), the obligations of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming measures for the sectors or sub-sectors set out in the **Description** element of that entry.

5. For Section B, in accordance with Article 9.9.2 (Non-Conforming Measures), the obligations of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the sectors, sub-sectors or activities set out in the **Description** element of that entry.

6. For Section A, a measure that is only inconsistent with Article 9.8 (Senior Management and Boards of Directors) need not be reserved against Article 9.3 (National Treatment).

7. For the purposes of this Annex:

(a) "Mode 1" means the supply of a financial service from the Area of a Party into the Area of the other Party;

(b) "Mode 2" means the supply of a financial service in the Area of a Party to a person of the other Party;

(c) "Mode 3" means the supply of a financial service in the Area of a Party by a financial institution of the other Party; and

(d) "Mode 4" means the supply of a financial service by a natural person of a Party in the Area of the other Party.

8. The sectors or sub-sectors listed in this Schedule refer to the provisional CPC codes as used in the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991), to the Services Sectoral Classification List published by the WTO (WTO document MTN.GNS/W/120 of July 10, 1991), or to the activities listed in Article 9.1 (Definitions).

INTRODUCTORY NOTES

1. The commitments made by Hong Kong, China under this Agreement with respect to Mode 1 and Mode 2 of financial services as defined in paragraph 7 of the Explanatory Notes for this Schedule do not signify a commitment to allow a service supplier from the Area of Peru to solicit business or to conduct marketing in the Area of Hong Kong, China.

2. The commitments made by Hong Kong, China under this Agreement shall not prevent it from adopting or maintaining non-discriminatory measures which restrict or require specific types of legal entity through which a service supplier may supply a service.

3. There is a statutory monopoly on the operation of a stock market in Hong Kong, China.

Section A

III A-HKC-1

Sector	FINANCIAL SERVICES
Sub-Sector	Insurance and insurance-related services
Obligations Concerned	National Treatment (Article 9.3) Senior Management and Boards of Directors (Article 9.8)
Measures	Paragraph 2.8 of the Guideline on application for authorization to carry on insurance business in or from Hong Kong (GL5) published by the Insurance Authority.
Description	The chief executive appointed by the authorised insurer shall normally reside in Hong Kong, China.

III A-HKC-2

Sector	FINANCIAL SERVICES
Sub-Sector	Banking and other financial services (excluding insurance)
Obligations Concerned	National Treatment (Article 9.3) Senior Management and Boards of Directors (Article 9.8)
Measures	Section 74 of the *Banking Ordinance (Cap. 155)*
Description	For Mode 3 supply of financial services related to acceptance of deposits and other repayable funds from the public, all authorised institutions (local or overseas) must appoint a chief executive and not less than one alternative chief executive, each of whom shall be an individual and ordinarily resident in Hong Kong, China.

III A-HKC-3

Sector	FINANCIAL SERVICES
Sub-Sector	Banking and other financial services (excluding insurance)
Obligations Concerned	National Treatment (Article 9.3) Senior Management and Boards of Directors (Article 9.8)
Measures	Section 8ZZU of the *Payment Systems and Stored Value Facilities Ordinance (Cap. 584)*
Description	For Mode 3 supply of financial services related to all payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts, all licensees to operate stored value facilities must appoint a chief executive and not less than one alternative chief executive each of whom shall be an individual and ordinarily resident in Hong Kong, China.

Section B

III B-HKC-1

Sector	FINANCIAL SERVICES
Sub-Sector	All
Obligations Concerned	Market Access for Financial Institutions (Article 9.5) Cross-Border Trade (Article 9.6)
Description	Hong Kong, China reserves the right to adopt or maintain any measure relating to Article 9.5 (Market Access for Financial Institutions) or Article 9.6 (Cross-Border Trade), except for the sectors and sub-sectors, and subject to the terms, limitations and conditions, listed in the Appendix to this Schedule.

III B-HKC-2

Sector	FINANCIAL SERVICES
Sub-Sector	All
Obligations Concerned	National Treatment (Article 9.3) Senior Management and Boards of Directors (Article 9.8)
Description	Hong Kong, China reserves the right to adopt or maintain:

> Mode 3: Any measure with respect to all financial services other than the financial services referred to in subparagraph (a), subparagraph (b), subparagraph (c), subparagraph (d), subparagraph (e), subparagraph (f), subparagraph (g), subparagraph (h), subparagraph (i), subparagraph (j)(i), subparagraph (j)(ii), subparagraph (j)(iii), subparagraph (j)(iv), subparagraph (j)(v), subparagraph (k), subparagraph (l), subparagraph (m), subparagraph (o), and subparagraph (p) (excluding intermediation services under the subparagraph (p)) under the definition of financial service in Article 9.1 (Definitions).

For the financial services subject to *Securities and Futures Ordinance (Cap. 571)*, Hong Kong, China reserves the right to adopt or maintain:

> Mode 3: The requirement that, in relation to the regulated activity, at least one responsible officer of the licensed corporation is available at all times to supervise the business of the regulated activity for which the corporation is licensed.

III B-HKC-3

Sector	FINANCIAL SERVICES
Sub-Sector	All
Obligations Concerned	National Treatment (Article 9.3)
Description	With respect to Mode 3, Hong Kong, China reserves the right to adopt or maintain any measure relating to subsidies or grants, including government-supported loans, guarantees and insurance, or to any conditions attached to the receipt of such subsidies or grants.

APPENDIX

For the purposes of this Appendix, the "Terms, limitations and conditions in relation to Article 9.5 (Market Access for Financial Institutions) and Article 9.6 (Cross-Border Trade)" column refers to the modes of supply of financial services as defined in paragraph 7 of the Explanatory Notes for this Schedule.

Modes of supply: 1) Mode 1 2) Mode 2 3) Mode 3	
Sector or sub-sector	**Terms, limitations and conditions in relation to Article 9.5 (Market Access for Financial Institutions) and Article 9.6 (Cross-Border Trade)**
SECTOR-SPECIFIC COMMITMENTS	
Insurance and Insurance-related Services	
(a) direct insurance (including co-insurance): (i) life (ii) non-life	1) None other than that statutory insurances must be purchased from an insurer authorised in Hong Kong, China. 2) None other than that statutory insurances must be purchased from an insurer authorised in Hong Kong, China. 3) None other than that only an incorporated company authorised by the Insurance Authority (IA) or an association of underwriters approved by the IA is permitted to carry on insurance business. In the case of the former, commercial presence must take the form of a subsidiary or branch. Insurance business shall not be carried out through a representative office[2].
(b) reinsurance and retrocession	1) None, provided that the insurance company is a company incorporated outside Hong Kong, China and has no agent nor place of business in Hong Kong, China. 2) None 3) None other than that only an incorporated company authorised by the IA or an association of underwriters approved by the IA is permitted to carry on insurance business. In the case of the former, commercial presence must take the form of a subsidiary or branch. Insurance business shall not be carried out through a representative office[2].

[2] A representative office is considered a promotion (for non-business purpose only) and liaison office and can only serve some auxiliary functions such as conduct market research, collect business statistics and establish contacts with prospective customers and partners. It cannot conduct any profit generating business activities.

Modes of supply: 1) Mode 1 2) Mode 2 3) Mode 3	
Sector or sub-sector	**Terms, limitations and conditions in relation to Article 9.5 (Market Access for Financial Institutions) and Article 9.6 (Cross-Border Trade)**
(c) insurance intermediation, such as brokerage and agency (d) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services	1) None other than claims settlement services, except for settlement of claims under contracts of goods in transit insurance entered into wholly outside Hong Kong, China in respect of goods consigned to Hong Kong, China 2) None 3) None
Banking and Other Financial Services (excluding insurance)	
(e) acceptance of deposits and other repayable funds from the public	1) Unbound 2) None 3) None other than that: (a) all authorised institutions (i.e. licensed banks, restricted licence banks and deposit-taking companies) shall maintain a physical presence in Hong Kong, China; and (b) in the case of an overseas bank seeking to establish a representative office in Hong Kong, China, such offices are prohibited from taking deposits and undertaking banking business in general.
(f) lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transactions	1) Unbound 2) None 3) None
(g) financial leasing	1) None 2) None 3) None
(h) all payment and money transmission services including credit, charge and debit cards, travellers cheques and bankers drafts	1) Unbound 2) None 3) None

Modes of supply: 1) Mode 1 2) Mode 2 3) Mode 3	
Sector or sub-sector	**Terms, limitations and conditions in relation to Article 9.5 (Market Access for Financial Institutions) and Article 9.6 (Cross-Border Trade)**
(i) guarantees and commitments	1) None 2) None 3) None
(j) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following: (i) money market instruments, including cheques, bills, certificates of deposits; (ii) foreign exchange; (iii) derivative products including futures and options; (iv) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements; and (v) transferable securities.	1) Unbound 2) None 3) None
(k) participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues	1) Unbound 2) None 3) None
(l) money broking	1) Unbound 2) None 3) None

Modes of supply: 1) Mode 1 2) Mode 2 3) Mode 3	
Sector or sub-sector	**Terms, limitations and conditions in relation to Article 9.5 (Market Access for Financial Institutions) and Article 9.6 (Cross-Border Trade)**
(m) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services	1) Unbound 2) None 3) None
(o) provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services	1) None 2) None 3) None
(p) advisory and other auxiliary financial services on all the activities listed in subparagraphs (e) through (o) under the definition of financial service in Article 9.1 (Definitions), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy	1) None other than commodity trading and investment advisory services 2) None 3) None
All financial services not specified above	1) Unbound 2) Unbound 3) Unbound