

**Protocol to Implement the Fifth Package of Commitments on Financial Services  
under the ASEAN Framework Agreement on Services**

**INDONESIA  
SCHEDULE OF SPECIFIC COMMITMENTS**

**INDONESIA**  
**SCHEDULE OF HORIZONTAL COMMITMENTS UNDER AFAS**

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

Sector or sub-sector	Limitation on Market Access	Limitation on National Treatment	Additional Commitments
<b>I. HORIZONTAL COMMITMENTS</b>			
All sectors included in this schedule	<p>3) Commercial Presence of the foreign service provider(s) may be in the form of joint venture and/or representative office, unless mentioned otherwise.</p> <p>Joint venture should meet the following requirements:</p> <p>a) Should be in the form of Limited Liability Enterprise (Perseroan Terbatas/PT),</p> <p>b) Not more than 49% of the capital share of the Limited Liability Enterprise (Perseroan Terbatas/PT) may be owned by foreign partner(s).</p>	<p>3) The Income Tax Law provides that non-resident taxpayers will be subject to withholding tax of 20% if they derive the following income from Indonesian source:</p> <p>(a) interest (b) royalties (c) dividend (d) fee from service performed in Indonesia</p> <p>The tax rate can be changed due to tax treaty.</p> <p>3) Land Acquisition Undang-Undang Pokok Agraria (Land Law) No. 5 of 1960 stipulates that no foreigners (juridical and natural persons) are allowed to own land. However, a joint venture enterprise could hold the right for land use (Hak Guna Usaha) and building rights (Hak Guna Bangunan), and they may rent/lease land and property.</p> <p>Any juridical and natural persons should meet professional qualification requirements.</p>	

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	<p>4) Subject to Indonesian Labour and Immigration Laws and Regulations, only directors, managers and technical experts/advisors, unless mentioned otherwise, are allowed to stay for two years and could be extended for a maximum two times subject to two years extension each time.            Manager and technical experts (intra corporate transfer) are allowed based on an economic needs test.            The entry and temporary stay of business visitor(s) is (are) permitted for a period of 60 days and could be extended maximum for 120 days.</p>	<p>4) Expatriate Charges            Any foreign natural persons supplying services are subject to charges levied by Governments.</p> <p>Labour Laws and Regulations.            Any expatriate employed by a joint-venture enterprise, representatives office, and/or other types of juridical person and/or an individual services provider must hold a valid working permit issued by the Ministry of Manpower and Transmigration.</p>	

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<b>Definitions:</b>			
<p><b>"Director"</b>: One or a group of persons entrusted by the shareholders of a services providing entity with the final overall control and direction of the enterprise, and legally responsible to act on behalf of the enterprises inside and/or outside of the court.</p> <p><b>"Manager"</b>: Senior employee of a service supplier who primarily directs the management of the organisation, receiving general supervision or direction principally from the board of directors of the business, including directing the service supplier or a department or sub-division thereof, supervising or controlling the work of other supervisory, professional or managerial employee or having the authority to hire or fire or recommend such or other personnel actions.</p> <p><b>"Technical Expert/Advisor"</b>: Person employed by a service supplier who possesses a standard of high or common (i) qualifications referring to a type of work or trade requiring specific technical knowledge or (ii) knowledge essential or proprietary to the service, research equipment, techniques or management.</p> <p><b>"Joint Operator"</b>: A joint operation is an undertaking between one or several foreign and Indonesian enterprises of temporary nature, to handle one or several project/businesses without establishing a new statutory body according to Indonesian laws</p> <p><b>"Joint venture Enterprise"</b>: A joint venture enterprise is a legal entity organised under Indonesian law and having its domicile in Indonesia, in the form of cooperation between foreign capital and Indonesian (national) capital.</p> <p><b>"Contract Management"</b>: Contract management is a contract organised under Indonesian law in the form of cooperation on management of temporary nature between Indonesian (national) capital and foreign capital.</p> <p><b>"Business visitor(s)"</b>: natural person(s) staying in Indonesia for the purpose of participating in business meeting, business contacts including negotiations for the sales of services and/or other similar activities including those who prepare for the establishment of a commercial presence in Indonesia, without acquiring remuneration and/or any other direct income from within Indonesia, and are not engaged in making direct sales or supplying services to general public.</p>			