

## Client Alert



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### What's New on Indonesia's Schedule of Commitments Under AFAS 9th Package?

#### Introduction

On 27 November 2015, in Makati City, the Philippines, the 9th Package of Schedule of Commitments under the ASEAN Framework Agreement on Services ("**AFAS**") was signed by the ASEAN Member States. The 9th Package of AFAS Schedule of Commitments is the result of negotiations of ASEAN Member States on measures affecting trade in specific service sectors which provide for details of liberalization of the services sub-sectors where commitments are made. In the 9th Package of AFAS Schedule of Commitments, liberalization was undertaken based on a set of targets and timelines as stipulated in the ASEAN Economic Community ("**AEC**") Blueprint 2025. The 9th Package of AFAS Schedule of Commitments will come into force 180 days after the signing date.

As background, AFAS, which was signed on 15 December 1995 by ASEAN Economic Ministers ("**AEM**") during the 5th ASEAN Summit in Bangkok, Thailand, provides the mandate for progressive negotiations on the liberalization of trade in services. AFAS aims at substantially eliminating restrictions to trade in services among the ASEAN Member States to improve the efficiency and competitiveness of ASEAN services suppliers.

All AFAS rules are consistent with international rules for trade in services provided by the General Agreement on Trade in Services ("**GATS**") of the World Trade Organization ("**WTO**"). Liberalization of services trade under AFAS is directed towards achieving commitments beyond ASEAN Member States' commitments under GATS. This means stakeholders have full information on the services commitments made by the ASEAN Member States in both WTO and AFAS by examining the latest AFAS package.

At present, ASEAN has concluded nine packages of commitments under the AFAS signed by the AEM through five rounds of negotiations since 1 January 1996. These packages provide for details of commitments of each ASEAN Member State in various services sectors and subsectors.

There are 12 sectors under AFAS:

- Business Services
- Communication Services

- Construction and Related Engineering Services
- Distribution Services
- Educational Services
- Environmental Services
- Financial Services
- Health Related and Social Services
- Tourism and Travel related Services
- Recreational, Cultural and Sporting Services
- Transport Services
- Other Services Not Included Elsewhere

Before the 9th Package of AFAS Schedule of Commitments is signed, there were 4 modes of supply in each package of AFAS Schedule of Commitments:

- Mode 1: Cross-border supply
- Mode 2: Consumption abroad
- Mode 3: Commercial presence
- Mode 4: Presence of natural person

The ASEAN Member States signed the ASEAN Agreement on Movement of Natural Persons (MNP) in November 2012 in Phnom Penh, Cambodia. The schedules of commitment under the MNP Agreement supersede Mode 4 commitments of the earlier AFAS packages. Therefore, in the 9th Package of AFAS Schedule of Commitments there are only 3 modes of supply:

- Mode 1: Cross-border supply
- Mode 2: Consumption abroad
- Mode 3: Commercial presence

Indonesia has submitted its full commitments under the 9th Package. There are only slight changes under the 9th Package compared to Indonesia's schedule of commitments under the 8th Package. Below are the key changes to Indonesia's schedule of commitments under the 9th Package.

## Key Changes at Glance

The differences between Indonesia's schedule of commitments under AFAS 8th Package and under AFAS 9th Package are as follows:

- There are 15 new subsectors in AFAS 9th that not included in AFAS 8th Package:
  1. Research and experimental development services on linguistic and languages (CPC 85204), limited to foreign language only.
  2. Other (CPC 832), limited to rental services concerning video tapes (CPC 83202).
  3. Investigation and security (CPC 873), limited to shoplifting investigation services (CPC 87301).
  4. Photographic services (CPC 875) limited to Restoration, copying and retouching services of photography (CPC 87507).

5. Printing, publishing on a fee or contract basis (CPC 88442) limited to publishing for English textbook for higher educational services only.
  6. Other: telephone answering services (CPC 87903).
  7. Cleaning services of exhaust gases (CPC 9404) air pollution control.
  8. Other entertainment services (theatrical producer, singer group, band and orchestra entertainment services) (CPC 96191).
  9. Libraries, archives, museums and other cultural services.
  10. Museum services limited to museums of jewelry (CPC 96321).
  11. Passenger transportation by man or animal-drawn vehicles (CPC 71224).
  12. Freight transportation by man or animal-drawn vehicle (CPC 71236).
  13. Supporting services for road transport terminal (CPC 744).
  14. Parking services (CPC 74430).  
Pipeline transport: transportation of petroleum and natural gas (CPC 7131).(according to Indonesia Proposal of Energy services Classification is under Transportation, Transmission and Distribution of Petroleum Product and Gas (2.2.7.1)).
- There are changes of foreign participation percentages for the following sectors/subsectors:

**Packaging Services (CPC 87600):**

**AFAS 9th Package**

As indicated in the Horizontal Section (FEP 49%). For eastern parts of Indonesia foreign equity participation is allowed up to 70%.

**AFAS 8th Package**

As indicated in the Horizontal Section (FEP 49%).

**Nursing Services:**

**AFAS 9th Package**

In East Indonesia region (except in Makassar and Manado), joint venture company with foreign equity participation of up to 70%. In Medan and Surabaya, up to 51%.

**AFAS 8th Package**

In East Indonesia region (except in Makassar and Manado), joint venture company with foreign equity participation of up to 49%. In Medan and Surabaya, up to 51%.

**Other Human Health Services (CPC 9319 other than 93191), limited to residential health facilities services, rather than hospital services only (CPC 93193)**

**AFAS 9th Package**

Joint venture with foreign equity participation of up to 70 %

**AFAS 8th Package**

Joint venture with foreign equity participation of up to 51%

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## Actions To Consider

With the 15 new subsectors that will be open and the increase of foreign participant limitation in some sectors/subsectors above based on the 9th Package of AFAS Schedule of Commitments for Indonesia, the competitiveness in the area of trade services between the ASEAN Member States will also increase. On the other hand, there will be investment opportunities in the above sectors/subsectors for investors from the ASEAN Member States to invest in Indonesia.

We are still waiting to see how the Indonesian government will implement the schedule of commitments under AFAS 9th Package into Indonesia's new negative list or other policies in the area of trade services.

## Conclusion

The 9th Package of AFAS Schedule of Commitments affirmed ASEAN's intent to further broaden and deepen services integration and enhance ASEAN Member States' competitiveness in services. All of these contribute to a progressively deeper level and wider coverage of ASEAN Member States' commitment to substantially eliminate restrictions to trade in services among them.

The ASEAN Member States continue to work on further liberalizing their trade in services to cover all sectors and modes of supply. The next agenda is to negotiate and implement the ASEAN Trade in Services Agreement (ATISA) as the legal instrument for further integration of the services sector in the region.