

MAFTA Factsheet: Services

The Malaysia-Australia Free Trade Agreement (MAFTA) provides a strong basis for increased bilateral trade and investment with Malaysia, an important regional trading partner and neighbour. It builds on the commitments Australia and Malaysia have already made in the ASEAN-Australia-New Zealand FTA (AANZFTA) to liberalise and expand the bilateral trade relationship. It provides significant market access gains for Australian goods exporters and services suppliers. It also provides for greater ease of doing business in Malaysia, making it both easier to enter and operate in the Malaysian market. Some of the most significant services improvements are detailed below.

Market Access Key Gains

Education Services

- For privately funded higher education institutions, Malaysia has committed to allow 70 per cent ownership by an Australian entity from entry into force, increasing to 100 per cent by 2015.
- In primary, general secondary and higher secondary education services, Malaysia has committed to allow 70 per cent ownership by an Australian entity from entry into force.
- In other education services, Malaysia has committed to allowing 51 per cent ownership by an Australian entity.

Financial Services

- In direct insurance companies, Malaysia has committed to allow 70 per cent ownership by an Australian entity.
- In investment banking Malaysia has committed to allow 70 per cent ownership by an Australian entity.

Professional Services

- In accounting, auditing and bookkeeping services, Malaysia has committed to allow 100 per cent ownership by an Australian entity.
- In management consulting services, Malaysia has committed to allow 100 per cent ownership by an Australian entity in management consulting services (excluding financial management consulting) and majority foreign ownership for other management consulting services.
- In taxation services, Malaysia has committed to allow 51 per cent ownership by an Australian entity.

Telecommunications

- Malaysia has committed to allow 70 per cent ownership by an Australian entity in Network Service Providers and Network Facilities Providers.
- For Application Service Providers, Malaysia has committed to allow 100 per cent ownership by an Australian entity.

Other Services

- In research and development services in natural sciences and engineering and interdisciplinary research and development services, Malaysia has committed to allow 100 per cent ownership by an Australian entity.
- In technical testing and analysis services Malaysia has also committed to allow 100 per cent ownership by an Australian entity.
- In services incidental to manufacturing Malaysia has committed to allow 100 per cent ownership by an Australian entity.
- Malaysia has committed to allow 70 per cent ownership by an Australian entity in the following tourism services: travel and tour operator services; hotel, tourist resort and restaurant services; convention and exhibition management services; and theme parks.
- In services incidental to mining, Malaysia has committed to allow 51 per cent ownership by an Australian entity.
- In related scientific and technical services, Malaysia has committed to allow 51 per cent ownership by an Australian entity.
- Malaysia has committed to allow 51 per cent Australian ownership in the following environmental services: wastewater management, cleaning services of exhaust gases; noise abatement services; and nature and landscape protection services.
- In international maritime services (excluding cabotage), Malaysia has committed to allow 51 per cent ownership by an Australian entity.
- In maritime agency services covering the marketing and sales of maritime transport, Malaysia has committed to allow 100 per cent ownership by an Australian entity.

Sector Specific Regulatory Measures

Financial Services

- A shorter period (within 120 days) for responses by regulatory authorities to applications by financial institutions to supply financial services.
- A commitment that prudential and regulatory measures “shall not constitute a means of arbitrary or unjustifiable discrimination” against Australia.
- Inclusion of a payment and clearing systems article, which provides Australian financial institutions established in Malaysia access to payment and clearing systems operated by public entities, and to official funding and re-financing facilities available in the normal course of business.
- Inclusion of a provision that permits Australian financial institutions to supply any new financial service similar to those services (included in Malaysia’s market access commitments) that Malaysia would permit its own financial institutions to supply, and vice versa.

Telecommunications

- MAFTA provides for Australian and Malaysian telecommunications suppliers to access and use public telecommunications networks and services in the territory of the other Party. This commitment will enable telecommunications companies to interconnect with existing providers and offer new services over existing networks.
- MAFTA guarantees number portability for mobile and other telecommunication services. This commitment will enable users to retain their existing telephone numbers when they switch to a different telecommunications service provider in the same country.
- MAFTA requires Australia and Malaysia to ensure that scarce resources including frequencies, numbers and spectrum are allocated in a transparent and non-discriminatory manner.
- MAFTA enables telecommunications suppliers to gain reasonable and non-discriminatory access to facilities necessary for providing their services, including key infrastructure, submarine cable systems and telephone numbers.
- MAFTA requires that existing telecommunications suppliers offer telecommunications suppliers of the other country no-less favourable treatment than that extended to their own affiliates or subsidiaries in regards to the provision of services and interconnection.

- MAFTA contains general competitive safeguards that will afford telecommunications suppliers protection against anti-competitive behaviour.

Improvements to Doing Business in Malaysia

MAFTA contains broad-based bilateral commitments that are aimed at promoting a more business friendly environment.

Key general improvements to doing business in Malaysia include

- Stronger protections for Australian trademarks and copyright.
- The establishment of a framework for mutual recognition of qualifications, licencing and certification requirements for professional services suppliers.
- More Australian business executives, senior managers and experts are able to enter and work in Malaysia, and to stay for longer periods (refer also to the Temporary Movement of Skilled Personnel Fact Sheet).
- MAFTA mandates required minimum standards of procedural transparency, such as reasonable notice of administrative processes (e.g. licencing and rule-making in specific cases) and opportunities to present facts and arguments before final administrative action.
- Licence applicants have an opportunity to remedy incomplete applications, to receive status reports on the progress of applications on request, and to receive an explanation of the reasons for denial or termination of applications.