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Committee on Trade in Financial Services

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COMMUNICATION FROM THE EUROPEAN COMMUNITIES

Transitional Review Mechanism in connection with Paragraph 18 of the Protocol on the Accession of the People's Republic of China

The following communication, dated 4 November 2004, from the delegation of the European Communities is being circulated to the Members of the Committee on Trade in Financial Services.

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1. The EC is transmitting comments and questions in advance of the meeting of the Committee on Trade in Financial Services of 23 November, in order for the Chinese authorities to have sufficient time to provide complete replies.

2. Once the information to be provided by China in accordance with paragraph 8 and paragraph IV.3 (a) of Annex 1A of its Accession Protocol has been received, the EC might come back with additional questions.

3. The EC welcomes the entry into force in June 2004 of the Regulations on Administration of Foreign-Funded Insurance Companies, in particular in relation to minimum capital requirements.

4. The EC also welcomes the removal of the one branch opening per year limit for foreign banks, as well as the lowering of capital requirements for direct branches of foreign banks.

5. Minimum working capital requirements for direct branches of foreign banks remain however extremely high, ranging from RMB 100 million to RMB 500 million per branch depending on the business scope. These requirements are much higher than minimum capital requirements in most other countries and effectively limit market access for foreign banks. At last year's TRM, China indicated it would consider further reducing branch capital requirements in line with further development of its regulatory framework.

Considering the still extremely high level of capital requirements, could China please indicate if and when it intends to further reduce minimum capital requirements for branches ?

6. Moreover, minimum working capital is required for each direct branch in China from the same bank, irrespective of the number of branches, and capital adequacy ratios have to be met for each individual branch, in isolation from the other branches. This seems excessive as Chinese authorities also require that the head office abroad of the foreign bank guarantees all liabilities of its branches in China.

Could China please indicate whether it intends to apply these requirements to the overall commercial presence of a bank in China, and not to each of its branches?

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7. China requires that 30% of the working capital of foreign branches at any time be deposited at a local bank on a list defined by Chinese authorities or, in case of Renminbi, alternatively be used to buy Government bonds.

Could China please explain why it does not allow those funds to be lodged with foreign banks established in China, in line with its national treatment commitment? Moreover, could China please explain why it requires such a large proportion of working capital to be deposited with another bank?

8. According to CBRC Order No. 6 2003, the percentage that an individual foreign financial institution can invest in the shares of a China-funded financial institution shall not exceed 20 percent. In addition, the percentage of the sum of several foreign financial institutions investing in shares of a China-funded financial institution is in practice limited to 25 percent.

As part of its WTO commitments, China has committed to removing foreign ownership restrictions in the banking sector. What are China's plans for lifting these foreign ownership limitations?

9. In the insurance sector, we understand that China only authorises actuaries ("appointed actuaries") from a small number of countries, as only professional degrees from those countries are recognised. This leads to an unjustified discrimination of actuaries from other countries.

Could China please indicate whether it intends to remove this discriminatory treatment of actuaries?