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COMMUNICATION FROM CHINESE TAIPEI

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 11 November 2004, from the delegation of Chinese Taipei is being circulated to the Members of the Committee on Trade in Financial Services.

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1. We welcome China's *Implementing Rules for the Administrative Regulations on Foreign-Invested Financial Institutions,* issued on 26 July 2004. We are pleased to note that some of the amendments made to the *Rules* by China's competent authorities are in response to questions posed by Members at the last TRM sessions. Changes include the removal of the restriction of branch opening to one per year, the lowering of capital requirements, and improved clarity of the application procedure. Some issues remain, however, on which some further clarification would be appreciated.

A. BANKING SERVICES

2. Article 17 of the *Implementing Rules* stipulates a minimum of RMB 100 million of working capital for each direct branch of a foreign bank, or of a Chinese-foreign joint bank in China. However, Article 19 of the *Law of Commercial Banks in China*, as amended in December 2003, carries no such stipulations. Could China please explain the rationale behind these seemingly different treatments, particularly as this limitation does not seem to apply to Chinese banks?

3. In Articles 31 to 35 of China's new *Implementing Rules,* the minimum capital requirements for each foreign branch are still comparatively high, ranging from RMB 100 to 500 million, depending on the scope of the business. Having raised the issue last year, we would appreciate it if China's authorities continue to review the necessity of making this requirement so high that it will surely restrict market access for foreign banks.

4. In China's *Administrative Regulations on Foreign-Invested Financial Institution*s, effective 1 February 2002, Article 17 requires parent banks applying to open a branch in China to have more than US$ 20 billion in assets at the end of the year prior to application. While we acknowledge that this complies with its commitments, we would welcome China taking the initiative in lowering the amount of assets required, or at least adopting a more flexible approach, such as using either the total assets of the financial holding company or the assets of the whole financial conglomerate as the set of indicators, instead of considering just the assets of the individual bank.

B. Insurance Services

5. Article 5 of the *Administrative Regulations on Foreign-Invested Insurance Companies* requires a foreign insurance company wishing to establish an insurance institution in China to have total assets of no less than US$5 billion at the end of the year prior to application.

6. Because life and non-life insurance businesses are different in nature, their assets vary widely in terms of scale. A life insurance company usually writes long-term policies, which require large technical reserves. This will in turn affect the size of its total assets. On the other hand, with most of its insurance policies being short-term, a non-life insurance company's technical reserves are lower, resulting in smaller assets.

7. Given these fundamental differences, would it not be more reasonable for China to introduce different levels of asset requirements for the two types of business? Moreover, for life and non-life insurance businesses alike, the level of assets is not necessarily the best criteria for judging a company's financial soundness. Would China therefore consider using a more suitable yardstick such as net worth?

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