

# WORLD TRADE ORGANIZATION

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Committee on Trade in Financial Services

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## COMMUNICATION FROM THE EUROPEAN COMMUNITIES

### Transitional Review Mechanism Pursuant to Paragraph 18 of the Protocol of Accession of the People's Republic of China ("China")

The following communication, dated 19 October 2007, 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 12 November 2007, 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 18 and paragraph V of Annex 1A of its Accession Protocol has been received, the EC might come back with additional questions.
  3. The EC welcomes the adoption of the *Regulation on the Administration of Foreign-Funded Banks*, in particular the possibility for foreign banks to incorporate as subsidiaries. The EC hopes that China will provide full national treatment in line with its WTO commitments, and that the establishment of such subsidiaries will not be subject to excessively onerous qualification requirements and waiting periods not listed in its WTO schedule.<sup>1</sup>

In this context, could China please clarify whether

- (a) **it permits foreign-funded banks to use the same structure of "second-tier" branches and sub-branches that is used by state-owned commercial banks; and**
- (b) **it will permit foreign-funded banks to take the 30% capital deposits from other banks on an equal basis with local banks; and**
- (c) **it has any justification for the additional five-year waiting period for the conduct of local currency business?**

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<sup>1</sup> It appears that China requires foreign banks to have operated a representative office for two years, then conversion to a subsidiary plus three years of foreign currency business, two of them consecutive with positive results.

4. The foreign ownership caps for existing Chinese banks (20% individually and 25% collectively) appear to be still in place.

**Considering that China has not scheduled limitations on foreign ownership, when is China planning to fully implement its WTO commitments and permit full foreign ownership of Chinese banks?**

5. Minimum working capital requirements for direct branches of foreign banks also remain extremely high, amounting to RMB 300 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. Furthermore, banks that incorporate locally are only allowed to retain one branch, under very strict conditions.

**Considering the still extremely high level of capital requirements, could China please indicate (1) whether it intends to further reduce minimum capital requirements for branches, and (2) why it has introduced such a one-branch cap and when it intends to lift it?<sup>2</sup>**

6. The geographical expansion of foreign insurers is still hampered significantly by slow and unpredictable regional-level licensing processes, in many cases amounting to discriminatory economic needs tests.

**When will China take any steps to ensure equal treatment between domestic and foreign insurers with regard to branch/sub-branch licensing and geographic expansion?**

7. China has made full national treatment commitments in the banking subsector (k) *Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services*. China's regulatory regime in this subsector is, however, applied only to foreign suppliers, and the current regulator appears to be engaged in competition with other suppliers.

(a) **Can China confirm that the regulator in this sector is also carrying out activities in direct competition with foreign commercial operators?**

(b) **Can China confirm that domestic firms are not subject to the same supervision and domestic regulation as foreign firms in this sector?**

8. On 10 September 2006, Xinhua News Agency issued the *Administrative Measures on News and Information Release by Foreign News Agencies within China*. These measures stipulate that all foreign vendors of financial information must operate through a distributor appointed by Xinhua.

(a) **Can China clarify the conditions under which foreign entities can be designated as an agent for the distribution of news and information in China?**

(b) **Can China clarify if a fulfilment of the conditions laid out in Article 7 of the 2006 Measures will automatically lead to a designation as distributor?**

(c) **Will firms in China continue to be able to contract with the same suppliers of financial information for the same services as they do outside China under the Administrative Measures?**

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<sup>2</sup> China's WTO schedule does not appear to contain a cap on branch licenses.

- (d) **Will firms be able to receive the same financial information and at the same time as investment firms outside China?**
- (e) **Can China clarify how many suppliers of financial information services have been licensed under the 2006 Administrative Measures?**

9. Under the 2006 Administrative Measures from Xinhua News Agency, foreign financial information suppliers are required to supply Xinhua with commercially confidential information about clients, products and product pricing. Xinhua is, however, both a market competitor and regulator of financial information, through Xinhua China Economic Information Services (CEIS) and Xinhua Foreign Information Administration Centre (FIAC). China committed in the WTO to establish an independent regulator in the financial information sector, *inter alia*.

- (a) **How do the Administrative Measures effectively separate the regulatory authority of Xinhua from its commercial operations?**
- (b) **How will the confidentiality of commercial information and protection of trade secrets and intellectual property be ensured under the 2006 Administrative Measures?**

10. China's specific commitments under the GATS with respect to "Provision and transfer of financial information" list no limitations on commercial presence in China and stipulate that "Branches of foreign institutions are permitted".

- (a) **Could you explain how many branches of foreign institutions have been established in this sector in China?**
- (b) **Could you clarify the conditions that apply to obtaining a license for establishing a branch or any other form of legal establishment?**

11. In June 2007, Xinhua has launched its service "Xinhua '08" through which it supplies financial information services in China.

- (a) **Can China confirm that Xinhua '08 is a service that operates in competition with the services of other providers of financial information services?**
  - (b) **Can China explain how Xinhua '08 relates to the regulatory role that has been assigned to Xinhua News Agency?**
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