

COMMUNICATION FROM AUSTRALIA

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

The following communication, dated 26 October 2007, from the Delegation of Australia, is being circulated to the Members of the Committee on Trade in Financial Services.

1. Australia acknowledges the important work that China has undertaken to implement its WTO commitments for financial services. Australia recognises that China's accession to the WTO and its own economic reform program have led to the development and expansion of the financial sector and allowed greater access for foreign firms into China's financial services markets.

2. Australia recognises the importance of the transitional review, as mandated under paragraph 18 of China's accession protocol, as a useful mechanism in clarifying and assisting in the effective implementation of China's financial services commitments. In this context, Australia wishes to clarify China's implementation of commitments as it relates to the securities market.

I. SECURITIES

3. China's WTO accession commitments include a commitment with regard to securities, that within three years of China's accession, foreign securities institutions will be permitted to establish joint ventures with foreign minority ownership not exceeding one third to engage (without a Chinese intermediary) in underwriting A¹ shares and in underwriting and trading B² and H³ shares as well as government and corporate debts and launching of funds. It was also specified that criteria for authorisation to deal in China's financial industry would be solely prudential and would not contain needs tests or quantitative limits on licences.

4. We understand from recent media reports that the China Securities Regulatory Commission has submitted draft rules to China's State Council which would limit foreign investors to investing in publicly traded brokerages and cap foreign ownership at 20 per cent.

- Could China confirm whether such draft rules are being considered?

¹ Shares traded domestically by Chinese nationals and Chinese juridical persons.

² Shares traded domestically by foreign nationals and foreign juridical persons.

³ Shares listed on overseas exchanges and traded freely where the underlying asset is China based.

II. REGULATORY ENVIRONMENT

5. In accordance with China's commitment in Part 1 – Section 2(c)(1) of its Protocol of Accession, China agreed to make available to WTO Members, upon request, all laws, regulations and other measures pertaining to or affecting trade in goods, services, TRIPS or the control of foreign exchange before such measures are implemented or enforced. Accordingly, Australia would appreciate China providing a copy of the draft regulations, if such regulations are being considered, as soon as possible prior to their implementation.

- If such rules are being considered, could China explain how such rules would be consistent with China's WTO accession commitments?

III. LICENSING

6. As part of its Strategic Economic Dialogue with the United States, China agreed to remove a block on the entry of new foreign securities firms and resume licensing securities companies, including joint-ventures, in the second half of 2007. The justification for the ban on new licenses, instituted in September 2006, was to allow the domestic industry time to consolidate and improve.

- Could China please clarify the rationale for the suspension of licensing foreign securities companies and whether this is in accordance with China's commitment that criteria for authorisation to deal in China's financial industry would be solely prudential?
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