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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 on the Accession of the People's Republic of China

The following communication, dated 12 November 2008, 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 on 1 December 2008, in order to allow the Chinese authorities sufficient time to provide a complete response.

2. In order to ensure effective review of the implementation by China of its commitments, the EC requests China to provide responses and relevant information to the following questions in advance of the meeting of the Committee in accordance with the paragraph 18 of the Protocol of Accession of China.

3. The EC reserves its right to raise additional questions, upon receipt of responses to its questions and comments by China, in accordance with paragraph 8 and paragraph IV.3(a) of Annex 1A of the Protocol of Accession of China.

4. The EC has noted the adoption of the *Regulation on the Administration of Foreign-Funded Banks* and, in particular, the possibility for foreign banks to incorporate as subsidiaries. The EC expects 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. In this context, could China please clarify the following:

(a) Does it intend to permit foreign-funded banks to fulfil the requirement to deposit 30% of their capital by doing so in foreign banks incorporated in China, on an equal basis with local banks?

(b) Could China confirm that it has now suspended the lending quotas for banks?

(c) Could China explain how the additional five-year waiting period for the conduct of local currency business falls within the prudential carve-out?

5. The foreign ownership cap for existing Chinese banks appears to still be in place. Considering that China has not scheduled limitations on foreign ownership, could China explain the 20 per cent cap on equity investment by a single overseas financial institution in a Chinese-funded financial institution and clarify when such limitations will be lifted?

6. Minimum working capital requirements for direct branches of foreign banks also remain extremely high, amounting up 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 and, in addition, the restrictions on foreign debt severely hamper the possibility of outside financing for branches of foreign banks. In this respect, could China please:

(a) Explain why it has introduced a one-branch cap, given that its schedule does not appear to contain a quantitive restriction on branch licenses?

(b) Justify the need for such high levels of capital requirements per branch?

(c) Clarify when it will treat branches of foreign banks in China as part of a consolidated network, and not as separate legal entities and thus calculate prudential ratios on the basis of the overall presence of a bank?

(d) Clarify whether it intends to lift the restrictions on foreign debt?

7. The section 13(3) of the draft Bank Card Policy shared by PMOC with individual banks in April 2007, foreign banks must relocate their data processing systems onshore before receiving the bank card licence, whereas the current bank card policy 13.5 states that data processing systems should be "safe and efficient" without specifying where they should be located. In this respect, could China please explain this potential policy change, which seems not warranted to mitigate infrastructure risks?

8. The geographical expansion of foreign insurers is still hampered significantly by slow and unpredictable regional-level licensing processes, for example the need to apply for licenses for one branch at a time, whereas Chinese insurers can apply for several licenses simultaneously. EC request China to clarify which steps it has taken to ensure equal treatment between domestic and foreign insurers with regards to branch/sub-branch licensing and geographic expansion.