

**COMMUNICATION FROM THE EUROPEAN COMMUNITIES**

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

The following communication, dated 9 October 2009, 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 2 November 2009, 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 Council for Trade in Services 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.
  4. 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? Further, could China explain why a maximum of 25 per cent of foreign equity investment classifies a Chinese bank as a foreign bank and the implications of this classification on the bank's business scope and regulatory obligations?
  5. Foreign-funded banks are only permitted to apply for branches one at a time. Foreign bank branches are treated as separate legal entities with regard to capital adequacy ratios and, in addition, there still remains a requirement of three years of operation and two continuous years of profitability before foreign bank branches are permitted to carry out local currency business. In this respect, could China please:
    - (a) Explain why branch applications are only allowed one at a time, given that its schedule does not appear to contain a quantitative restriction on branch licenses;

- (b) Clarify when it will treat branches of foreign banks in China as part of a consolidated network, and not as separate legal entities as regards calculation of prudential ratios, i.e. base the calculation on the overall presence of a bank, in particular taking into account that a foreign bank with multiple branches in China is already required to designate one to be a management branch responsible for managing and monitoring the networks business operation in China?

6. China has not opened its electronic payments sector to foreign service suppliers and currently only China Union Pay is allowed to operate in its market, maintaining a monopoly on electronic payment transactions. Could China please explain why China Union Pay is allowed to operate in a monopoly and how it envisages opening the market to foreign operators in order to comply with its GATS commitments?

7. According to the section 13(3) of the draft Bank Card Policy shared by PBOC 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. Though the draft Bank Card Policy seems not be promulgated, foreign banks are requested to relocate their data processing systems already creating de facto discrimination for foreign banks. In this respect, could China please explain this policy change, which cannot be justified as a prudential measure? How is it in line with China's WTO commitments?

8. We welcome the adoption of the new Insurance Law, which goes some way in removing obstacles for foreign insurance companies, especially in the field of reinsurance. However, the geographical expansion of foreign insurers is still significantly hampered by slow and unpredictable regional-level licensing processes, for example the administrative practice of accepting one application for a license for a single branch at a time, whereas Chinese insurers can apply for several licences simultaneously as can be seen from publicly available approved licences records. As this is an issue that has been ongoing for some time now, the 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?

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