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Committee on Trade in Financial Services

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COMMUNICATION FROM TURKEY

Initial Offer on Financial Services

Addendum

The following communication is circulated at the request of Turkey to Members of the Committee on Trade in Financial Services.

Turkey hereby presents its initial offer of specific commitments on financial services as the submission for the mid-July deadline.

The attached initial offer reflects recent changes in internal regulatory framework of Turkey. It suggests elimination or relaxation of some restrictions, clarifies certain points and improves wording as well.

The initial offer is conditional. The decision to maintain it will depend on other WTO Members' readiness to achieve a significantly higher level of liberalisation commitments. It is understood that, pursuant to the Second Decision on Financial Services of 21 July 1995, Turkey retains the right to modify or withdraw all or part of the specific commitments on financial services and to list MFN exemptions.

TURKEY
SPECIFIC COMMITMENTS - INITIAL OFFER ON FINANCIAL SERVICES

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons				
Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments	
7. FINANCIAL SERVICES				
1. Turkey undertakes commitments on Financial Services in accordance with the provisions of the "Understanding on Commitments in Financial Services" (the Understanding).				
2. The market access commitments in respect of modes (1) and (2) apply only to the transactions indicated in paragraphs 3 and 4 of the market access section of the Understanding respectively.				
3. The admission to the market of new financial services or products may be subject to the existence of, and consistency with, a regulatory framework aimed at achieving the objectives indicated in Article 2.1 of the Financial Services Annex.				
Measures applicable to all sectors in financial services				
<u>Banking</u>	<p>Establishment of a bank which has to be in the form of a joint-stock company and opening of the first branch of a foreign bank require authorization from the Council of Ministers. Following the establishment, operation license from Undersecretariat of Treasury must be obtained in order to start collecting deposits or execute banking operations.</p> <p>Foreign banks wishing to establish branches or representative offices must not be prohibited from performing banking operations in their country of origin or in the countries where they operate.</p> <p>According to the Banks Act, lending limits for the branches of foreign banks are based on branch capital rather than worldwide capital.</p>			

Modes of supply:	(1)	Cross-border supply	(2)	Consumption abroad	(3)	Commercial presence	(4)	Presence of natural persons
	Sector or subsector	Limitations on market access			Limitations on national treatment		Additional commitments	
	<u>Insurance</u>	<p>The establishment of domestic or foreign banks as well as the first branch of a non-resident bank are subject to the same amount of minimum capital requirement. Acquisitions or transfer of the shares representing a ratio equal or higher than 5, 20, 33 and 50 per cent of the capital is subject to the authorization of the Undersecretariat of Treasury.</p> <p>In order to be established in Turkey, insurance and reinsurance companies have to be founded in the form of a joint-stock or a mutual company. Foreign insurance and reinsurance companies may operate in Turkey by opening branches as well.</p> <p>However, reinsurance companies can do reinsurance business without fulfilling establishment conditions mentioned above.</p> <p>Establishment of insurance and reinsurance companies or opening of a branch of a foreign insurance or a reinsurance company is subject to prior permission of the Ministry of State. Following the establishment, operation licence from Undersecretariat of Treasury must be obtained in order to start insurance or reinsurance business.</p>			<p>Foreign commercial presence or presence of foreign natural persons regarding services auxiliary to insurance is permitted only for consultancy and risk management services.</p>			

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Sector or subsector	Limitations on market access				Limitations on national treatment		Additional commitments	
	<p>A foreign insurance or reinsurance company wishing to open a branch in Turkey must not have been prohibited from operating in insurance field in its country of origin or in the other countries where it has been permitted to operate.</p> <p>Establishment is subject to a minimum paid-in capital requirement.</p> <p>Acquisition or transfer of shares representing 10, 20, 33, 50 per cent or higher of the capital is subject to the authorization of Undersecretariat of Treasury.</p> <p>Engaging of natural persons in brokerage business or establishment of an insurance and reinsurance broker company or opening of a branch of a foreign insurance and reinsurance broker company in Turkey is subject to prior permission and obtaining operation licence from Undersecretariat of Treasury. Such a firm must be founded in the form of a joint-stock or a limited liability company, and must possess the required minimum paid-in capital.</p>							

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Sector or subsector	Limitations on market access				Limitations on national treatment		Additional commitments	
<u>Securities market</u>	<p>Insurance and reinsurance brokers have to reside in Turkey and they must have at least 5 years of experience as brokers in their countries of origin.</p> <p>For the establishment of capital market institutions (*) the permission of the Capital Market Board is required. If banks or insurance companies apply to the Board to form a mutual fund or to increase fund capital, the opinion of the Undersecretariat of Treasury has to be obtained to finalize the applications. Opening of branches and agencies by securities intermediary institutions established in Turkey also requires the Board's permission. The permission of the Board is required for obtaining 5 per cent or more of the capital of already established securities intermediary institutions by one shareholder (real or legal persons).</p> <p>Intermediary institutions, investment corporations, portfolio management companies and rating agencies can only be established in the form of a joint-stock company.</p>				<p>Establishment of branches and representative offices of foreign non-bank intermediary institutions is not permitted.</p>			

* According to the Capital Market Law, capital market institutions are specified as follows:

- (a) Securities intermediary institutions.
- (b) Investment Corporations.
- (c) Mutual Funds.
- (d) Other capital market institutions permitted to operate in the capital market such as clearing and custodial houses, rating and auditing institutions, etc.

Modes of supply:	(1)	Cross-border supply	(2)	Consumption abroad	(3)	Commercial presence	(4)	Presence of natural persons
Sector or subsector	Limitations on market access				Limitations on national treatment		Additional commitments	
<u>OTHER FINANCIAL SERVICES</u> A. <u>Financial leasing companies</u>	Additionally, operations of all capital market institutions and banks are subject to the permission of the Board. While giving such permission, the Board issues "Authorization Certificates" for the activities to be carried out by each institution. Rating agencies should have a know-how agreement with an international rating agency recognized by the Board. In case of partnership with an international rating agency recognized by the Board, the share of the international rating agency shall not be less than 25 per cent of the capital of the domestic rating agency.				The minimum paid-in capital required for opening a branch by a foreign lessor is more than that of establishing a company.			
	Financial leasing companies (lessors) can be established in the form of a joint-stock company. Establishment and opening of a branch of a lessor as well as opening of a branch of a foreign lessor are required prior permission of the Ministry of State to which the Undersecretariat of Treasury is attached.							

Modes of supply:	(1)	Cross-border supply	(2)	Consumption abroad	(3)	Commercial presence	(4)	Presence of natural persons
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B.	<u>Factoring and consumer credit companies</u>	<p>A minimum paid-in capital is required for the establishment of a lessor and for the opening of a branch by a foreign lessor.</p> <p>Foreign lessors may open branches in Turkey provided that they are authorized to deal in financial leasing in their home country or in the countries where they operate.</p> <p>Factoring companies and consumer credit companies must be established in the form of a joint-stock company.</p> <p>For the establishment of these companies, prior permission of the Undersecretariat of Treasury must be obtained and minimum paid-in capital is required.</p>						
C.	<u>Authorized institutions (foreign exchange dealers)</u>	<p>In order to engage in activities as an authorized institution, the permission of the Undersecretariat of Treasury must be obtained.</p> <p>Authorized institutions must be incorporated in the form of a joint-stock company. Establishment of an authorized institution and opening a branch of foreign legal entities performing similar activities necessitates a minimum capital requirement.</p>						

Modes of supply:		(1)	Cross-border supply	(2)	Consumption abroad	(3)	Commercial presence	(4)	Presence of natural persons
Sector or subsector		Limitations on market access			Limitations on national treatment			Additional commitments	
D. <u>Precious metals exchange</u>		Precious metals intermediaries (banks, authorized institutions, precious metals intermediary institutions as well as resident and non-resident natural or legal person) can operate in Istanbul Gold Exchange after being granted the operation licence by the Undersecretariat of Treasury and being registered by the Istanbul Gold Exchange.							
A. <u>Insurance and insurance related services</u>									
(a) Direct insurance									
(i) Non-life		(1),(2) Unbound except:			(1),(2) None				
		(a) The hull insurance of aircrafts, helicopters and ships which are purchased through a foreign loan or leased through a financial leasing contract from abroad, provided that the insurance period is limited to the term of the credit or leasing contract.							
		(b) Marine liability insurance.							
		(c) Transportation insurance of imported and exported goods.							
		(d) Individual accident, sickness and motor vehicle insurance during any travel abroad.							

Modes of supply: (1)		Cross-border supply (2)	Consumption abroad (3)	Commercial presence (4)	Presence of natural persons
Sector or subsector		Limitations on market access	Limitations on national treatment	Additional commitments	
(ii) Life		(3) None	(3) Compulsory traffic insurance of publicly owned motor vehicles can only be done by those insurance companies whose majority of paid-in capital belongs to Turkish citizens.		
		(4) None	(4) None		
		(1) Unbound	(1) None		
		(2) None	(2) None		
		(3) None	(3) A certain per cent of paid insurance premiums is deducted from gross wages and corporate income in order to determine real individual and corporate taxable income. Insurance covered in this perspective must be underwritten by an insurance company in Turkey.		
(b) Reinsurance and retrocession		(4) None	(4) None		
		(1),(2) Non-life insurance premiums, after holding the retention, are subject to a certain per cent compulsory ceding to Milli Reinsurance Co. If the total retention ratio of the company reaches to 75 per cent, compulsory ceding is cancelled.	(1),(2) None		
		(3) None	(3) None		
		(4) None	(4) None		

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Sector or subsector		Limitations on market access	Limitations on national treatment	Additional commitments	
(c) Insurance intermediation		(1),(2) Unbound for dependent intermediaries (agencies, producers). Dependent intermediaries can act only on behalf of insurance companies authorized to operate in Turkey.	(1),(2) None		
		(3) Insurance and reinsurance brokers and fully authorized agencies can only engage in insurance related business.	(3) None		
		(4) Unbound except administrative and technical personnel.	(4) None		
		(1),(2) None except adjusters and actuaries.	(1),(2) Adjusters and actuaries have to be Turkish citizens.		
(d) Services auxiliary to insurance		(3) None	(3) None		
		(4) None except adjusters and actuaries.	(4) Adjusters and actuaries have to be Turkish citizens.		
		(1),(2) None	(1),(2) None		
		(3) No real person or legal entity other than those authorized under the Banks Act or under specific regulations may accept deposits.	(3) None		
B. <u>Banking and other financial services</u>	(e) Acceptance of deposit	(4) None	(4) None		

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons				
Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments	
(f) Lending of all types (i) Consumer credit	(1),(2) None	(1),(2) None		
	(3) Banks and consumer credit companies may lend consumer credits.	(3) None		
	(4) None	(4) None		
	(1),(2) None	(1), (2) None		
(ii) Factoring	(3) Banks and factoring companies can engage in factoring activities.	(3) None		
	(4) None	(4) None		
	(1), (2) None	(1), (2) None		
	(3) Banks can engage in trading of these activities.	(3) None		
(iii) Mortgage credit and financing of commercial transactions	(4) None	(4) None		
	(1),(2) None	(1), (2) None		
	(3) Banks can engage in trading of these activities.	(3) None		
	(4) None	(4) None		
(g) Financial leasing	(1),(2) Leasing contracts related to cross-border leasing transactions must be permitted by the Undersecretariat of Treasury.	(1),(2) Regarding cross-border leasing transactions, the annual rent may not be less than the Turkish Lira equivalent of \$25,000.		
	(3) Lessors can engage in financial leasing transactions.	(3) None		
	(4) None	(4) None		

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Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
(h) All payment and money transmission services	(1), (2) None (3) Transfers of foreign exchange abroad must be carried out through the banking system. (4) None	(1), (2) None (3) None (4) None	
(i) Guarantees and commitments	(1), (2) None except that performance bonds with the transactions specified in the State Tender Law must be obtained from a bank in Turkey. (3) None (4) None	(1), (2) None (3) None (4) None	
(j) Trading for own account or for account of customer			
(i) Money market instruments	(1), (2) None (3) Banks and securities intermediary institutions can engage in trading of money market instruments. (4) None	(1), (2) None (3) None (4) None	
(ii) Foreign exchange	(1), (2) None (3) Banks and authorized institutions can engage in foreign exchange trading. (4) None	(1), (2) None (3) None (4) None	

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Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments	
(iii) Derivative products	(1),(2) None	(1),(2) None		
	(3) Banks and related intermediary institutions can engage in trading of these activities.	(3) None		
	(4) None	(4) None		
	(1),(2) None	(1),(2) None		
(iv) Exchange rate and interest rate instruments	(3) Banks and related intermediary institutions can engage in trading of these activities.	(3) None		
	(4) None	(4) None		
(v) Transferable securities	(1),(2) None	(1),(2) None		
	(3) Banks and securities intermediary institutions can engage in trading of these activities.	(3) None		
	(4) None	(4) None		

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(vi) Other negotiable instruments and financial assets, including bullion	(1),(2) None (3) Banks and related intermediary institutions can engage in trading of these activities. Only, precious metals intermediaries can engage in trading of bullion in the Istanbul Gold Exchange.	(1),(2) None (3) None			
(k) Underwriting and placement	(4) None (1),(2) None (3) Banks and securities intermediary institutions can provide underwriting and placement services for the securities to be issued after being registered by the Capital Market Board.	(4) None (1),(2) None (3) None			
(l) Money broking	(4) None (1),(2),(3),(4) See headnote (3) on Financial Services.	(4) None			
(m) Asset management portfolio management	(1),(2) None (3) Banks, securities intermediary institutions and portfolio management companies can provide these services.	(1),(2) None (3) None (4) None			

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(i) Collective investment management	(1),(2) None	(1),(2) None		
	(3) Mutual funds and investment corporations can engage in collective investment management.	(3) None		
	(4) The majority of the members of the board of directors of an investment corporation must have Turkish nationality.	(4) None		
	(1),(2),(3),(4) See headnote (3) on Financial Services.	(1),(2) None		
(ii) Pension fund management	(1),(2) None	(3) None		
(iii) Custodial, depository and trust services	(3) Banks and securities intermediary institutions operating in capital market can provide custodial services for their customers' securities, until their buying-selling orders are realized.	(4) None		
(n) Settlement and clearing services	(4) None	(1),(2) None		
	(1),(2) None	(3) None		
	(3) Only Takasbank A.Ş. can provide securities settlement and clearing services.	(4) None		
	(4) None	(1),(2) None		
(o) Provision and transfer of financial information	(1),(2) None	(3) None		
	(3) None	(4) None		
	(4) None	(1),(2) None		
		(3) None		

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons				
Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments	
(p) Advisory, intermediation and other auxiliary services	(1),(2) None	(1),(2) None		
	(3) None	(3) None		
	(4) None	(4) None		