

# WORLD TRADE ORGANIZATION

RESTRICTED

**S/FIN/W/12/Add.3/Rev.1**

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**Committee on Trade in Financial Services**

Original: English

## COMMUNICATION FROM JAPAN

### Revised Offer on Financial Services

#### Revision

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

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Further to the initial offer contained in S/FIN/W/12/Add.3, dated 11 July 1997, Japan hereby submits the attached revised draft offer submitted to the Committee on Trade in Financial Services on 11 July 1997.

This revised offer includes the Additional Commitments that Japan is ready to undertake. These commitments are, however, conditional and contingent upon the level of commitments undertaken by Japan's trading partners.

Japan reserves the right to modify or withdraw all or part of its commitments, and to list MFN exemptions, in addition to the right of making technical modifications. Japan hopes that other Members also undertake meaningful commitments on an MFN basis.

**JAPAN**  
**REVISED DRAFT OFFER - SPECIFIC COMMITMENTS**

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
7. FINANCIAL SERVICES	<p>In addition to Part III of this Agreement and the Annex on Financial Services, Japan undertakes its specific commitments with respect to Financial Services under this Agreement in accordance with the Understanding on Commitments in Financial Services (hereinafter referred to as the "Understanding", attached to this schedule, which forms an integral part of this schedule). Thus, the obligations under the Understanding are incurred in the sectors of Financial Services additionally to those covered by the provisions of Part III of this Agreement and the Annex on Financial Services.</p> <p>For prudential reasons within the context of paragraph 2(a) of the Annex on Financial Services, Japan shall not be prevented from taking measures such as non-discriminatory limitations on juridical forms of a commercial presence. For the same reasons, Japan shall not be prevented from applying non-discriminatory limitations concerning admission to the market of new financial services which shall be consistent with regulatory framework aimed at achieving such prudential objectives. In this context, securities firms are allowed to deal in securities defined in the relevant Japanese law, and banks are not allowed to deal in those securities unless allowed in accordance with the said law.</p> <p>With respect to specific commitments in the sectors of Financial Services, services supplied in the territory of a Member other than Japan to the service consumer in Japan without any active marketing from the service supplier are considered as services supplied under paragraph 2(b) of Article I of this Agreement.</p>		
A. <u>Insurance and Insurance - Related Services</u>	Specific commitments in the market access column with respect to the supply of a service as prescribed in paragraphs 2(a) and (b) of Article I of this Agreement are unbound except for obligations under paragraphs 3 and 4 of the Understanding respectively which are incurred in this sector additionally to those covered by the provisions of Part III of this Agreement and the Annex on Financial Services, subject to conditions and qualifications set out below.		Japan undertakes the additional commitments attached hereto.

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>(1) Commercial presence is in principle required for insurance contracts on the following items and any liability arising therefrom:</p> <ul style="list-style-type: none"> <li>(a) goods being transported within Japan;</li> <li>(b) ships of Japanese registration which are not used for international maritime transport.</li> </ul> <p>60 per cent of amounts of reinsurance on the compulsory automobile third party liability insurance is subject to the compulsory coverage by the Government.</p> <p>Insurance services are not allowed to be supplied through an intermediary in Japan.</p> <p>(2) Commercial presence is in principle required for insurance contracts on the following items and any liability arising therefrom:</p> <ul style="list-style-type: none"> <li>(a) goods being transported within Japan;</li> <li>(b) ships of Japanese registration which are not used for international maritime transport.</li> </ul>	<p>(1) None</p> <p>(2) None</p>	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Banking and Other Financial Services (excluding Insurance and Insurance-Related Services)	<p>60 per cent of amounts of reinsurance on the compulsory automobile third party liability insurance is subject to the compulsory coverage by the Government.</p> <p>Insurance services are not allowed to be supplied through an intermediary in Japan.</p>		
	<p>(3) 60 per cent of amounts of reinsurance on the compulsory automobile third party liability insurance is subject to the compulsory coverage by the Government.</p> <p>Insurance intermediation services are not allowed to be supplied for insurance contracts made by an insurance service supplier who is not licensed in Japan.</p>	<p>(3) None except as indicated in horizontal commitments</p>	
	<p>(4) Unbound except as indicated in horizontal commitments</p>	<p>(4) Unbound except as indicated in horizontal commitments</p>	
	<p>Specific commitments in the market access column with respect to the supply of a service as prescribed in paragraphs 2 (a) and (b) of Article I of this Agreement are unbound except for obligations under paragraphs 3 and 4 of the Understanding respectively which are incurred in this sector additionally to those covered by the provisions of Part III of this Agreement and the Annex on Financial Services subject to conditions and qualifications set out below.</p>		<p>Japan undertakes the additional commitments attached hereto.</p>

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>(1) Commercial presence is required for discretionary investment management services.</p> <p>(2) "None" after April 1998. Before April 1998, supply of services is subject to all the following limitations:  Overseas deposits and trust contracts denominated in foreign currencies, the sum of which are over 200 million yen value, and those denominated in yen are subject to approval. Business corporations which satisfy the standards of in-house systems relating to legal affairs, risk management and financial management set out by the Ministry of Finance may be given an approval effective for an indefinite period of time with respect to overseas deposits denominated in foreign currencies over 200 million yen value for the purpose of portfolio investment subject only to <i>ex post</i> reporting.</p>	<p>(1) None</p> <p>(2) None</p>	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons				
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	
	<p>The following capital transaction services may be supplied through authorized foreign exchange banks in Japan, or otherwise are in principle subject to approval:</p> <p>(a) Trade in:</p> <p>(i) payment instruments such as cheques and bills;</p> <p>(ii) foreign exchange; and</p> <p>(iii) derivative products which involve outright foreign exchange transactions such as currency spot options.</p> <p>Business corporations are exempted from obtaining approval and may invest in all securities derivative products listed on overseas exchanges for their own account subject only to <i>ex post</i> reporting.</p> <p>Business corporations which satisfy the standards of in-house systems relating to legal affairs, risk management and financial management set out by the Ministry of Finance are exempted from obtaining approval and may invest in financial futures and options listed on overseas exchanges for their own account subject only to <i>ex post</i> reporting.</p>			

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>(b) Special methods of settlement such as offsetting and any method whereby a resident either makes payment for the non-resident concerned to another resident or receives payment made by another resident for the non-resident concerned.</p> <p>(c) Swaps</p> <p>(3) Commercial presence for investment trust management services must be juridical person established in Japan.</p> <p>(4) Unbound except as indicated in horizontal commitments</p>	<p>(3) The deposit insurance system does not cover deposits taken by branches of foreign banks.</p> <p>As indicated in horizontal commitments</p> <p>(4) Unbound except as indicated in horizontal commitments</p>	<p>(3) With respect to the assets of Employees' Pension Funds qualified by the Minister of Health and Welfare to be managed by discretionary investment management service suppliers, Japan no longer employs the classification of New Money* and assets other than New Money.</p>

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\* New Money is an asset mainly consisting of accumulation of premiums collected by Employees' Pension Funds after the day when such Funds are qualified by the Minister of Health and Welfare as appropriate for expanding their means of asset management to include discretionary investment management services.

## JAPAN: ADDITIONAL COMMITMENTS

### A. Insurance and Insurance-Related Services

Whenever specific commitments in the additional commitments column state that appropriate authorities will approve an application or will not reject a notification, the application or notification must meet the applicable legal criteria. The appropriate authorities will apply the legal criteria in a fair and transparent manner, and will interpret them with a view toward allowing insurance service suppliers to differentiate, on the basis of the risk insured, the rates, forms and distribution of products.

1. Appropriate authorities will approve applications for a direct response system for automobile insurance, and will approve payment of premiums through the use of credit cards with the policy effective from the date when the insurance service supplier accepts credit card payment.

A direct response system ("Tsushin-Hanbai") for automobile insurance is defined as a distribution method whereby insurance service suppliers offer their products to consumers through advertising media, such as newspapers and magazines, and through direct mail or telephone calls; accept applications of consumers delivered via mail or telephone calls; and enter into contracts with consumers through an exchange via mail or telephone calls, without meeting the consumers.

2. Effective 1 April 1998, appropriate authorities will expand the scope of the advisory rate system for loading rates of commercial fire insurance, by lowering the minimum amount per contract to seven billion yen.

3. Appropriate authorities include the following sixteen products on the list of products to which the notification system applies with respect to the rates and riders for such products and will allow, within the standard period of ninety days, marketing of the products notified to the appropriate authorities (i.e., will not reject the notifications): medical malpractice liability insurance ("Ishi Baisho Sekinin Hoken"), advanced loss of machinery profit insurance ("Sogyo Kaishi Chien Hoken"), delayed start of construction insurance ("Kaigyo Chien Hoken"), civil engineering completed risks insurance ("Doboku Kozobutsu Hoken"), nuclear energy insurance (Genshiryoku Hoken"), umbrella liability insurance ("Kigyo Hokatsu Baisho Sekinin Hoken"), environment liability insurance ("Kankyo Osen Baisho Sekinin Hoken"), erection insurance ("Kumitate Hoken"), moveable comprehensive insurance ("Dosan Sogo Hoken"), computer comprehensive insurance ("Kompyuta Sogo Hoken"), boiler and turbo-set insurance (Boiler Turbo-set Hoken"), transit insurance ("Unsoh Hoken"), credit card theft insurance ("Credit Card Tonan Hoken"), general liability insurance ("Baisho Sekinin Hoken"), construction all-risk insurance ("Kensetsu Koji Hoken"), and surety bonds ("Hosho Shoken").

4. (a) By no later than 1 July 1998, appropriate authorities will eliminate obligations for members of a rating organization to use rates calculated by the rating organization for the provision of insurance services while allowing members of a rating organization to use, for the purpose of calculating rates, the statistical data collected by the rating organization.

(b) When the necessary legislative changes are made and their accompanying administrative measures come into effect to implement subparagraph(a) above, the appropriate authorities will approve, within the standard processing period of ninety days after submission, applications allowing all insurance service suppliers to differentiate, on the basis of the risk insured, the rates, forms and distribution of products, without regard to whether such applications use statistical rates calculated by the rating organization.

(c) In the interim before the necessary legislative changes are made and their accompanying administrative measures come into effect, the appropriate authorities will approve within the



standard processing period of ninety days after submission, applications for products in major product categories in the life and non-life sectors which provide for the flexibility to differentiate, on the basis of the risk insured, the rates, forms and distribution of products.

(d) Appropriate authorities will approve applications for voluntary automobile insurance with the flexibility to differentiate, on the basis of the risk insured, the rates, forms and distribution of products, including a direct response system for automobile insurance with differentiated rates (collectively referred to as "differentiated auto insurance") effective 1 September 1997. Differentiation on the basis of risk insured includes differentiation of rates outside the banded rates based on the following risk factors: age, sex, driving history, usage (e.g., commercial, personal) and pattern of use (e.g., mileage per year), geography (by region, i.e. Hokkaido, Shikoku, Kyushu, and Honshu, which will be divided into Tohoku, Kanto-Koshinetsu, Hokuriku-Tokai, and Kinki-Chugoku), vehicle type, vehicle safety features, and multi-car ownership.

5. (a) Appropriate authorities will not permit non-life insurance subsidiaries of life insurance service suppliers to sell the following personal accident insurance:

- (i) personal accident insurance based on a single policy written for and/or endorsed<sup>1</sup> by non-profit inter-industry associations or foundations for managers of corporations<sup>2</sup>;
- (ii) domestic and overseas travel accident insurance through travel agents;
- (iii) personal accident insurance for students marketed through or endorsed by schools (including all levels of schools, and including public and private schools), or scholastic, student or parent organizations or associations (i.e., "Gakusei-Dantai", "Dosokai" and PTA);
- (iv) personal accident insurance through direct response methods ("Tsushin-Hanbai");
- (v) group personal accident insurance except when the insurance subsidiaries are acting as lead managers among co-insurers or solo underwriter, and when the insurance is sold to a group that has not held in the preceding six months a policy for the same or a substitutable group personal accident insurance product by small to medium and/or foreign insurance service suppliers; and
- (vi) maturity refund personal accident insurance.

(b) Appropriate authorities will not permit life insurance subsidiaries of non-life insurance service suppliers to sell stand-alone cancer insurance and stand-alone medical insurance, and the appropriate authorities will maintain the limit regarding the ratio of rider benefits to base policy benefits that had existed before the new Insurance Business Law came into force on 1 April 1996.

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<sup>1</sup>"Endorse" means to recommend ("suisho") and/or back-up ("koen").

<sup>2</sup>"Non-profit inter-industry associations or foundations for managers of corporations" means the "Zenkoku Hojinkai Sorengo", "Kyokuren Hojinkai", "Kenhojinkai Rengokai", "Tan-i Hojinkai", "Nozeikyokai Rengokai", "Burokku-kai" and "Nozeikyokai".

(c) Appropriate authorities will terminate the measures<sup>3</sup> to avoid radical change in the third sector as described in subparagraphs (a) and (b) two and one-half years after the date when the necessary legislative changes are made and their accompanying administrative measures come into effect as described in paragraph 4, on condition that all the following measures will have been implemented by that date. Isolated instances of minor divergence with respect to the standard processing period of the measures set out in subparagraphs (i), (iii)(B), or (v) below do not constitute a failure to implement the following measures for the purpose of this paragraph.

- (i) the appropriate authorities approve, within the standard processing period of ninety days, applications for differentiated auto insurance as described in paragraph 4(d);
- (ii) the appropriate authorities have lowered the minimum insured amount per contract required for application of the advisory rate system for commercial fire insurance as described in paragraph 2;
- (iii) with respect to the notification system, the appropriate authorities;
  - (A) have put into effect the notification system with respect to the last six products set out in paragraph 3; and
  - (B) allow, within the standard period of ninety days, marketing of the sixteen products set out in paragraph 3 notified to the appropriate authorities (i.e., will not reject the notifications);
- (iv) the necessary legislative changes are made and their accompanying administrative measures come into effect to eliminate obligations for members of a rating organization to use rates calculated by the rating organization as described in paragraph 4; and
- (v) with respect to applications for differentiated products or rates, the appropriate authorities approve, within the standard period of ninety days, applications submitted.

In the event that no applications or notifications have been submitted by ninety days before the above-mentioned date, the measures in subparagraphs (iii)(B) and (v) will be considered to have been implemented.

6. If an insurance service supplier has submitted documents to appropriate authorities related to insurance products or rates, which the insurance service supplier considers to be an application, the insurance service supplier may make a request to the appropriate authorities to determine its status. The appropriate authorities will respond without undue delay to such a request and indicate whether they consider the documents to constitute a formal application.

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<sup>3</sup>The "measures" do not apply to group long-term disability insurance ("Dantai Choki Shogai Shotoku Hosho Hoken") and income indemnity insurance ("Shotoku Hosho Hoken"), including individual long term disability insurance ("Choki Shogai Tokuyaku").

B. Banking and Other Financial Services  
(excluding Insurance and Insurance-Related Services)

1. With respect to the assets of Employees' Pension Funds (hereinafter referred to as "Funds") qualified by appropriate authorities to be managed by discretionary investment management service suppliers, the eight-year qualification requirement with respect to the required duration of the Funds following their establishment is reduced to three years.
2. There is a ceiling of 1/2 of total assets with respect to the assets of Funds which can be managed by discretionary investment management service suppliers. The ceiling will be eliminated by March 1999.
3. No asset allocation guidelines are applied to individual pension fund management service suppliers with respect to the management of fund assets of the Pension Welfare Service Public Corporation (excluding the commingled fund management of insurance companies) or of the assets of Funds (excluding the commingled fund management of insurance companies) which can be managed by discretionary investment management service suppliers.
4. Investment trust management services and discretionary investment management services may be supplied by one entity if that entity satisfies the relevant prudential provisions of Japanese Laws and the prudential standards set out by appropriate authorities.
5. Appropriate authorities permit the Pension Welfare Service Public Corporation to allow investment advisory companies to participate in the management of its fund assets through a variation on the "Shiteitan" framework. At the time of the next comprehensive review of the Japanese pension system in 1999, this scheme would be reviewed.

"Shiteitan" is a designated money trust for separate investment management provided by trust banks. Under "Shiteitan", beneficial owners do not specify individual objects of stocks, bonds or other financial instruments to be purchased. Trust banks are permitted to guarantee principal of "Shiteitan" under domestic laws and regulations.
6. Appropriate authorities will fully utilize the existing mechanisms available to them to respond expeditiously to accommodate innovations in securities products, while ensuring the most appropriate supervision of markets from prudential viewpoints.