

## COMMUNICATION FROM THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU

### Transition Review Mechanism (TRM) in connection with Paragraph 18 of the Protocol on the Accession of the People's Republic of China

The attached paper has been received from the delegation of the Separate Territory of Taiwan, Penghu, Kinmen and Matsu to the Committee on Trade in Financial Services.

Chinese Taipei welcomes the efforts made by the People's Republic of China to bring its regulations on financial markets into conformity with its WTO accession commitments in the area of financial services.

Chinese Taipei believes that a transparent regulatory regime is in the interests of China as well as all its trading partners and our main concerns relate to the clarity and the scope of certain regulations. Along with several other Members of the Committee on Trade in Financial Services, we wish to raise following questions.

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### I. INSURANCE

1. According to Part 7.A of China's Schedule of Specific Commitments on Services, China pledged that foreign insurers will be permitted to enter China's insurance market upon accession. The China Insurance Regulatory Commission (CIRC) issued *Administrative Regulations on Foreign-Invested Insurance Companies*, which came into effect on 1 February 2002:

- (a) Articles 5, 6, and 14 of *Administrative Regulations on Foreign-Invested Insurance Companies* state that the application of business scope, form of establishment, percentage of foreign ownership, the geographic coverage and the establishment of branches by Foreign-Invested Insurance Companies shall be determined by the CIRC in accordance with the relevant regulations. Please indicate what the "relevant regulations" are and provide them for our reference. Please also explain how this regulation conforms to China's commitments.
- (b) According to Part 7.A of China's Schedule of Specific Commitments on Services, China does not prohibit the same Foreign-Invested Insurance Company from providing life insurance and non-life insurance services. However, Article 16 of *Administrative Regulations on Foreign-Invested Insurance Companies* states that the same Foreign-Invested Insurance Company is not permitted to conduct both life insurance and non-life insurance services. Please explain how this requirement complies with China's commitments and conforms to GATS regulations.

2. According to Part 7.A of China's Schedule of Specific Commitments on Services, China does not limit the term of validity of licences for Foreign-Invested Insurance Companies and it clearly stipulates the geographic coverage available for Foreign-Invested Insurance Companies. However, according to the "Administrative Regulations for Insurance Brokerage Companies", which came into effect on 1 January 2002 and were issued by the CIRC, we would appreciate the clarification of the following matters:

- (a) Article 25 of the Regulations stipulates that the validity period for the Licence for Providing Insurance Brokerage Service is three years, and the licence has to be renewed by application to the CIRC 60 days before it expires. Please explain why there is a necessity for this requirement and indicate whether there are any other specific requirements to be taken into account when applying to renew a licence. Please also explain how this requirement is consistent with China's WTO commitments.
- (b) Article 40 of the Regulations states that the application for geographic coverage by insurance brokerage companies will be subject to approval by the CIRC. We should be grateful if China could explain how this requirement conforms to its WTO accession commitments.

## II. BANKING

1. According to Part 7.B of China's Schedule of Specific Commitments on Services, China is committed to allowing foreign banks and other financial companies to enter its banking or other financial markets. China promulgated *Administrative Regulations on Foreign-Invested Financial Institutions* on 29 December 2001. However, the *Administrative Regulations* contain no specific mention of either the scope of geographic coverage or the client coverage in the running of RMB business. Please provide information on these aspects in the liberalization schedules and the relevant legislative process. Please also explain how the *Administrative Regulations* comply with China's WTO accession commitments.

2. Questions relating to the *Detailed Implementing Rules for the Administrative Regulations on Foreign-Invested Financial Institutions*, which took effect from 1 February 2002.

- (a) According to its Schedule of Specific Commitments on Services, China pledged that upon its accession, foreign financial institutions will be permitted to provide foreign currency services. However, Article 32 of the *Detailed Implementing Rules for the Administrative Regulations on Foreign-Invested Financial Institutions* states that foreign financial institutions should increase their working capital or registered capital before conducting a full range of foreign currency businesses. It would be appreciated if China could please provide justification for this requirement and explain how it conforms to GATS principles.
- (b) According to China's Schedule of Specific Commitments on Services, China pledged that within two years of accession, foreign financial institutions will be permitted to provide services in local currency (i.e., RMB business) to Chinese enterprises. However, Article 33 to Article 36 of the *Detailed Implementing Rules for the Administrative Regulations on Foreign-Invested Financial Institutions* stipulates that foreign financial institutions running RMB businesses are divided into two categories - partial or full-scope RMB businesses - and that each category requires a different level of working capital or registered capital. Please provide the justification for these Articles and explain how this requirement complies with GATS rules.

### III. SECURITIES SERVICES

1. According to the securities services part of Part 7.B of China's Schedule of Specific Commitments on Services, China pledged that upon accession, foreign security services will be permitted to enter Chinese securities markets. Article 7 of China's *Regulations of Foreign Capital Sharing Stocks to Set Up Security Companies* and Article 6 of the *Regulations of Foreign Capital Sharing Stocks to Set Up Fund Management Companies*, promulgated on services on 1 June 2002, requires that the home securities regulator of foreign shareholders must sign a "Memorandum of Understanding regarding Stock Supervising Co-operation" with the Chinese Securities Regulatory Commission. Could China please explain why there is a necessity for this requirement and how it conforms to China's WTO commitments.

2. According to the same commitments as indicated above, China pledged that upon accession, foreign securities service suppliers will be permitted to establish joint ventures. However, Article 7 of China's *Regulations of Foreign Capital Sharing Stocks to Set Up Security Companies* stipulates that offshore shareholders should have conducted financial business for ten years or more. Chinese Taipei would be grateful to have an explanation of how this requirement conforms both to China's WTO accession commitments and the WTO principle of national treatment.

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