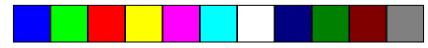




## Annexes







## Annex A

### CHECKLIST

#### **FINANCIAL SERVICES LIBERALIZATION: GOALS AND BEST PRACTICES**

*For use by economies in assessing and evaluating the quality of financial services offers in the Doha negotiations.*

#### **BANKING**

##### **GOALS**

*The offer should create new market-opening and investment opportunities. To what degree does it satisfy the following goals?*

- 1) Improves upon 1997 commitments (where applicable)
- 2) Creates new business opportunities through the lifting of restrictions
- 3) Creates conditions that will attract new capital
- 4) Addresses market access, national treatment and transparency of domestic regulation measures in a comprehensive manner (as elaborated in the best practices which follow).

##### **BEST PRACTICES**

*A high-quality offer in the banking sector should contain the elements enumerated below.*

##### **ESTABLISHMENT**

- 1) Permits investor to choose the form of establishment – whether as a branch, joint venture or wholly-owned subsidiary – that makes the most business sense.
- 2) Contains no “economic needs tests” or other geographic or product-specific restrictions.
- 3) Grandfathers existing investments in operations and activities.

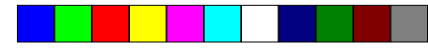
##### **TEMPORARY ENTRY OF NATURAL PERSONS**

Facilitates the temporary entry of key financial services personnel required for managerial, technological, system or risk management purposes (add other categories as may be required by applicable investments).

##### **NATIONAL TREATMENT**

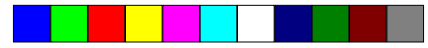
- 1) Provides assured national treatment for asset management activities provided by financial services firms.
- 2) Avoids discriminatory international markets as domestic companies.
- 3) Should treat locally established affiliates of foreign banks on the same basis as domestic companies for regulatory and other purposes. Where differences in such treatment exist, they should not create conditions of competition more favorable to domestic service or service suppliers than for like service or service suppliers of other WTO Members.





## Annex A

ADDITIONAL COMMITMENTS	
TRANSPARENCY	EXAMPLES
<ol style="list-style-type: none"> <li>1) Commits to improved transparency overall.</li> <li>2) Spells out procedures for providing interested parties with notice of proposed rulemaking and opportunities for comment on proposed new rules.</li> <li>3) Gives interested parties a reasonable amount of time to comment on, understand and take steps to comply before new or revised regulations take effect.</li> <li>4) Commits to current and proposed regulations being easily accessible in writing and on the Internet.</li> <li>5) Commits to a clear and accessible licensing process, including creation of a system for answering inquiries about regulatory requirements, interpretation, exceptions that are easily accessible and responsive to the public.</li> <li>6) Commits to providing justifications for denials of licenses or applications based strictly on factors explicitly identified in the pertinent regulations.</li> <li>7) Commits to the making of prompt licensing decisions and provides a timely, nondiscriminatory appeals process available for applicants whose applications are denied.</li> <li>8) Commits to provide clear and reliable information about an economy's financial services laws and practices.</li> </ol>	<ol style="list-style-type: none"> <li>a) Publication in national gazette.</li> <li>b) Standard procedures for submitting public comments.</li> </ol> <p>Clearly defines a standard "reasonable amount of time".</p> <p>E-government procedures.</p> <ol style="list-style-type: none"> <li>a) Creates an enquiry point for licensing and application matters.</li> <li>b) E-government procedures.</li> <li>c) Employees are evaluated on accountability to the public.</li> </ol> <p>Justifications are provided in writing and within a fixed timeframe, known to all.</p> <ol style="list-style-type: none"> <li>a) Spells out appeals process, sequence and timeframes.</li> <li>b) E-government procedures.</li> </ol> <ol style="list-style-type: none"> <li>a) E-government procedures.</li> <li>b) Regular interchanges between regulatory and supervisory bodies and private sector through public forums or other mechanism.</li> </ol>

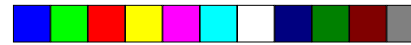


## Annex A

<b>INSURANCE</b>
<b>GOALS</b>
<i>The offer should create new market-opening and investment opportunities. To what degree does it satisfy the following goals?</i>
<ol style="list-style-type: none"> <li>1) Improves upon 1997 commitments (where applicable)</li> <li>2) Creates new business opportunities through the lifting of restrictions</li> <li>3) Creates conditions that will attract new capital</li> <li>4) Addresses market access, national treatment and transparency of domestic regulation measures in a comprehensive manner (as elaborated in the best practices which follow).</li> </ol>
<b>BEST PRACTICES</b>
<i>A high-quality offer in the insurance sector should contain the elements enumerated below.</i>
<b>MARKET ACCESS</b> <ol style="list-style-type: none"> <li>1) Contains no “economic needs tests” or other geographic or product-specific restrictions.</li> <li>2) Grandfathers existing investments in operations and activities.</li> </ol>
<b>Reinsurance: marine and transportation insurance allowed cross border (Mode 1).</b>  <b>Reinsurance: Access to marine and transportation insurance and intermediation on cross border basis (Mode 1 for each).</b>
<b>Life and non-life reinsurance:</b> <ol style="list-style-type: none"> <li>a) Elimination of mandatory cessions</li> <li>b) Elimination of restrictions for cessions to foreign reinsurance companies</li> <li>c) Elimination of right-of-first refusal privileges</li> <li>d) Elimination of discriminatory collateralization and localization of assets</li> <li>e) Abolition of reinsurance monopolies</li> <li>f) Guarantee of freedom of form for reinsurance contracts</li> </ol>
<b>ESTABLISHMENT</b> <ol style="list-style-type: none"> <li>1) Permits investor to choose the form of establishment – whether as a branch, joint venture or wholly-owned subsidiary – that makes the most business sense.</li> <li>2) Provides full regard for relationship between parent and subsidiary.</li> <li>3) Allows use of home company name in host economy.</li> <li>4) Does not permit denial of form of establishment on the basis of the legal entity in the home market.</li> <li>5) Permits freedom to determine percentage of foreign equity shares in joint ventures.</li> <li>6) Provides for staged elimination of foreign equity limitations (if any) with minimum 51% ownership during staging period.</li> </ol>
<b>Compulsory lines: Fully bound by national treatment and market access, as defined by GATS</b>
<b>Monopolies: Best endeavors to eliminate insurance monopolies and exclusive services providers</b>







## Annex A

### TEMPORARY ENTRY OF NATURAL PERSONS

- 1) Avoids nationality / residence requirements irrespective of nationality
- 2) Provides freedom to foreign insurance company to select its own representatives in host economy
- 3) Provides for temporary visa or work permits for short periods of stay

### NATIONAL TREATMENT

- 1) Provides the ability to compete for insurance coverage otherwise provided by state-owned or state affiliated enterprises.
- 2) Provides full national treatment with respect to capital, solvency, subject to prudential carve out (must explain reasons for less favorable treatment under prudential carve out)
- 3) Insurance mediation: monetary transfer obligations limited to what is necessary to assume legal responsibilities in host economies.

### TRANSPARENCY

- 1) Regulations to be made publicly available
- 2) Prior comment on new and revised regulations
- 3) Reasonable time interval prior to new regulations entering into force
- 4) Written explanations provided for rejected or accepting proposals
- 5) Written statement to insurance applicant outlining necessary documentation
- 6) Ability to provide information to the public on creditworthiness of a company
- 7) No restrictions on availability of financial services information to insurance suppliers
- 8) Availability of rules and procedures with respect to identification of financially troubled institutions
- 9) New tax measures affecting insurance enter into force only after their notification to the WTO on a semi-annual basis

### SOLVENCY AND PRUDENTIAL FOCUS

- 1) New products, rates and services for other than personal or compulsory lines not subject to file and approval requirements
- 2) Regulations aimed at allowing the market to determine which products and rates are to be applied
- 3) Written explanation required of products that require file and approval procedures
- 4) "Deemer" method for use in file and approval procedures
- 5) No limits on the number or frequency of new products by an insurance supplier
- 6) No restriction on dividend payments, provided that solvency provisions are met
- 7) Encouragement of use of international "best practices" standards in accounting and auditing activities

### INSURANCE MONOPOLIES

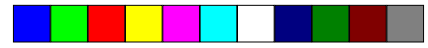
- 1) Monopolies generally prohibited from offering products outside monopoly designations, with provision that they not abuse monopoly position where authorized
- 2) Insurance suppliers with monopoly rights will keep separate accounts regarding monopoly and non-monopoly activities

### INSURANCE REGULATOR

Must be an independent government entity.

### PENSIONS

- 1) When private pensions are allowed, provide immediate obligations for full market access/national treatment to those providing private pensions in the market
- 2) Private pension fund managers designated to manage public or private pensions in host economy
- 3) Freedom to select form of commercial presence
- 4) Ability to offer range of product / investment options.



## Annex A

### ASSET MANAGEMENT

#### GOALS

*The offer should create new market-opening and investment opportunities. To what degree does it satisfy the following goals?*

- 1) Improves upon 1997 commitments (where applicable)
- 2) Creates new business opportunities through the lifting of restrictions
- 3) Creates conditions that will attract new capital
- 4) Addresses market access, national treatment and transparency of domestic regulation measures in a comprehensive manner (as elaborated in the best practices which follow).

#### BEST PRACTICES

*A high-quality offer in the banking sector should contain the elements enumerated below.*

##### ESTABLISHMENT

- 1) Removes barriers to establishment by foreign investors in the financial sector and allows wholly-owned subsidiaries.
- 2) Allows establishment in the form of branches or other forms of presence.
- 3) Commits to permitting locally established affiliates of foreign asset management firms to use the services of affiliates outside the host economy to provide asset management services to domestic clients in the host economy.
- 4) Commits to removing prohibitions on foreign firms from managing pension assets, including public assets, on the same basis as domestic firms.
- 5) Contains no "economic needs tests" or other geographic or product-specific restrictions.
- 6) Commits to grandfather existing investments in operations and activities.
- 7) Ensures market access for the full range of asset management services
- 8) Permits the dissemination and processing of financial information necessary to provide clients with necessary services.
- 9) Commits to support the provision and transfer of financial information, financial data processing, and the provision of advisory and software related services.

##### CROSS BORDER

- 1) Permits foreign asset management firms to provide services on a cross border (Mode 1) basis
- 2) Commits to support financial services provided cross border without requirement of local establishment (Mode 3) and also permits by consumption abroad (Mode 2)

##### TEMPORARY ENTRY OF NATURAL PERSONS

- 1) Facilitates the temporary entry of key financial services personnel required for managerial, technological, system or risk management purposes (add other categories as may be required by applicable investments).
- 2) Removes requirements for a minimum number of senior or key personnel to be resident or located in the economy.





## Annex A

### NATIONAL TREATMENT

- 1) Provides assured national treatment for the full range of asset management activities provided by financial services firms.
- 2) Locally established affiliates of foreign asset management firms should have the same access to domestic and international markets as domestic companies.
- 3) Locally established affiliates of foreign asset management firms should be treated for regulatory and other purposes on the same basis as domestic companies. Where differences in such treatment exist, they should not create conditions of competition more favorable to domestic service or service suppliers than for like service or service suppliers of other WTO Members.

### ADDITIONAL COMMITMENTS

TRANSPARENCY	EXAMPLES
<ol style="list-style-type: none"> <li>1) Commits to improved transparency overall.</li> <li>2) Spells out procedures for providing interested parties with notice of proposed rulemaking and opportunities for comment on proposed new rules.</li> <li>3) Gives interested parties a reasonable amount of time to comment on, understand and take steps to comply before new or revised regulations take effect.</li> <li>4) Commits to current and proposed regulations being easily accessible in writing and on the Internet.</li> <li>5) Commits to a clear and accessible licensing process, including creation of a system for answering inquiries about regulatory requirements, interpretation, exceptions that are easily accessible and responsive to the public.</li> <li>6) Commits to providing justifications for denials of licenses or applications based strictly on factors explicitly identified in the pertinent regulations.</li> <li>7) Commits to the making of prompt licensing decisions and provides a timely, nondiscriminatory appeals process available for applicants whose applications are denied.</li> <li>8) Commits to provide clear and reliable information about an economy's financial services laws and practices.</li> </ol>	<ol style="list-style-type: none"> <li>a) Publication in national gazette.</li> <li>b) Standard procedures for submitting public comments.</li> </ol> <p>Clearly defines a standard "reasonable amount of time".</p> <p>E-government procedures.</p> <ol style="list-style-type: none"> <li>a) Creates an enquiry point for licensing and application matters.</li> <li>b) E-government procedures.</li> <li>c) Employees are evaluated on accountability to the public.</li> </ol> <p>Justifications are provided in writing and within a fixed timeframe, known to all.</p> <ol style="list-style-type: none"> <li>a) Spells out appeals process, sequence and timeframes.</li> <li>b) E-government procedures.</li> </ol> <ol style="list-style-type: none"> <li>a) E-government procedures.</li> <li>b) Regular interchanges between regulatory and supervisory bodies and private sector through public forums or other mechanism.</li> </ol>