

# WORLD TRADE ORGANIZATION

RESTRICTED

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

11 December 1997

(97-5451)

---

**Committee on Trade in Financial Services**

Original: English

## COMMUNICATION FROM THE EUROPEAN COMMUNITIES AND THEIR MEMBER STATES

### Revised Offer on Financial Services

#### Revision

The following communication is circulated at the request of the European Communities and their Member States to Members of the Committee on Trade in Financial Services.

---

The European Communities and their Member States hereby present their revised offer for specific commitments on financial services.

The revised offer contains further improvements, as well as some limited amendments of clarificatory nature.

This revised offer is conditional. The European Communities and their Member States retain the right to modify or withdraw all or part of the specific commitments on financial services and to list MFN exemptions, depending on the progress of the negotiations.

**EUROPEAN COMMUNITIES AND THEIR MEMBER STATES  
REVISED OFFER - SPECIFIC COMMITMENTS ON FINANCIAL SERVICES**

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
<b>FINANCIAL SERVICES SECTOR<sup>1</sup></b>			
<ol style="list-style-type: none"><li>The Communities and their Member States undertake commitments on Financial Services in accordance with the provisions of the "Understanding on Commitments in Financial Services" (the Understanding).</li><li>These commitments are subject to the limitations on market access and national treatment in the "all sectors" section of this schedule and to those relating to the subsectors listed below.</li><li>The market access commitments in respect of modes (1) and (2) apply only to the transactions indicated in paragraphs B.3 and B.4 of the market access section of the Understanding respectively.</li><li>Notwithstanding note 1. above, the market access and national treatment commitments in respect of mode (4) on financial services are those in the "all sectors" section of this schedule, except for Sweden in which case commitments are made in accordance with the Understanding.</li><li>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(a) of the Financial Services Annex.</li><li>As a general rule and in a non-discriminatory manner, financial institutions incorporated in a Member State of the Community must adopt a specific legal form.</li></ol>			

<sup>1</sup> Unlike foreign subsidiaries, branches established directly in a Member State by a non-Community financial institution are not, with certain limited exceptions, subject to prudential regulations harmonized at Community level which enable such subsidiaries to benefit from enhanced facilities to set up new establishments and to provide cross-border services throughout the Community. Therefore, such branches receive an authorization to operate in the territory of a Member State under conditions equivalent to those applied to domestic financial institutions of that Member State, and may be required to satisfy a number of specific prudential requirements such as, in the case of banking and securities, separate capitalization and other solvency requirements and reporting and publication of accounts requirements or, in the case of insurance, specific guarantee and deposit requirements, a separate capitalization, and the localization in the Member State concerned of the assets representing the technical reserves and at least one third of the solvency margin. Member States may apply the restrictions indicated in this schedule only with regard to the direct establishment from a third country of a commercial presence or to the provision of cross-border services from a third country; consequently, a Member State may not apply these restrictions, including those concerning establishment, to third-country subsidiaries established in other Member States of the Community, unless these restrictions can also be applied to companies or nationals of other Member States in conformity with Community law.

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
A. <u>Insurance and Insurance-Related Services</u>	<p>(1) A: Promotional activity and intermediation on behalf of a subsidiary not established in the Community or of a branch not established in Austria (except for reinsurance and retrocession) are prohibited.</p> <p>A: Compulsory air insurance can be underwritten only by a subsidiary established in the Community or by a branch established in Austria.</p> <p>DK: Compulsory air transport insurance can be underwritten only by firms established in the Community.</p> <p>DK: No persons or companies (including insurance companies) may for business purposes in Denmark assist in effecting direct insurance for persons resident in Denmark, for Danish ships or for property in Denmark, other than insurance companies licensed by Danish law or by Danish competent authorities.</p> <p>D: Compulsory air insurance policies can be underwritten only by a subsidiary established in the Community or by a branch established in Germany.</p>	<p>(1) A: Higher premium tax is due for insurance contracts (except for contracts on reinsurance and retrocession) which are written by a subsidiary not established in the Community or by a branch not established in Austria. Exception from the higher tax can be granted.</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>D: If a foreign insurance company has established a branch in Germany, it may conclude insurance contracts in Germany relating to international transport only through the branch established in Germany.</p> <p>E, I: Unbound for the actuarial profession.</p> <p>FIN: Only insurers having their head office in the European Economic Area or having their branch in Finland may offer insurance services as referred to in sub-paragraph 3 (a) of the Understanding.</p> <p>FIN: The supply of insurance broker services is subject to a permanent place of business in the European Economic Area.</p> <p>F: Insurance of risks relating to ground transport may be carried out only by insurance firms established in the Community.</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>I: Insurance of risks relating to c.i.f. exports by residents in Italy may be underwritten only by insurance firms established in the Community.</p> <p>I: Transport insurance of goods, insurance of vehicles as such and liability insurance regarding risks located in Italy may be underwritten only by insurance companies established in the Community. This reservation does not apply for international transport involving imports into Italy.</p> <p>P: Air and maritime transport insurance, covering goods, aircraft, hull and liability can be underwritten only by firms established in the EC; only persons or companies established in the EC may act as intermediaries for such insurance business in Portugal.</p> <p>S: The supply of direct insurance is allowed only through an insurance service supplier authorised in Sweden, provided that the foreign service supplier and the Swedish insurance company belong to the same group of companies or have an agreement of cooperation between them.</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>(2) A: Promotional activity and intermediation on behalf of a subsidiary not established in the Community or of a branch not established in Austria (except for reinsurance and retrocession) are prohibited.</p> <p>A: Compulsory air insurance can be underwritten only by a subsidiary established in the Community or by a branch established in Austria.</p> <p>DK: Compulsory air transport insurance can be underwritten only by firms established in the Community.</p> <p>DK: No persons or companies (including insurance companies) may for business purposes in Denmark assist in effecting direct insurance for persons resident in Denmark, for Danish ships or for property in Denmark, other than insurance companies licensed by Danish law or by Danish competent authorities.</p> <p>D: Compulsory air insurance policies can be underwritten only by a subsidiary established in the Community or by a branch established in Germany.</p>	<p>(2) A: Higher premium tax is due for insurance contracts (except for contracts on reinsurance and retrocession) which are written by a subsidiary not established in the Community or by a branch not established in Austria. Exception from the higher tax can be granted.</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>D: If a foreign insurance company has established a branch in Germany, it may conclude insurance contracts in Germany relating to international transport only through the branch established in Germany.</p> <p>F: Insurance of risks relating to ground transport may be carried out only by insurance firms established in the Community.</p> <p>I: Insurance of risks relating to c.i.f. exports by residents in Italy may be underwritten only by insurance firms established in the Community.</p> <p>I: Transport insurance of goods, insurance of vehicles as such and liability insurance regarding risks located in Italy may be underwritten only by insurance companies established in the Community. This reservation does not apply for international transport involving imports into Italy.</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>P: Air and maritime transport insurance, covering goods, aircraft, hull and liability can be underwritten only by firms established in the EC; only persons or companies established in the EC may act as intermediaries for such insurance business in Portugal.</p> <p>(3) A: The licence for branch offices of foreign insurers has to be denied if the insurer, in the home country, does not have a legal form corresponding or comparable to a joint stock company or a mutual insurance association.</p> <p>B: Any public bid to acquire Belgian securities made by or on behalf of a person, company or institution outside the jurisdiction of one of the Member States of the European Community shall be submitted to the authorisation of the Minister of Finance.</p> <p>E: Before establishing a branch or agency in Spain to provide certain classes of insurance, a foreign insurer must have been authorized to operate in the same classes of insurance in its country of origin for at least five years.</p>	<p>(3) FIN: The general agent of the foreign insurance company shall have his place of residence in Finland, unless the company has its head office in the European Economic Area.</p> <p>S: Non-life insurance undertakings not incorporated in Sweden conducting business in Sweden are - instead of being taxed according to the net result - subject to taxation based on the premium income from direct insurance operations.</p> <p>S: A founder of an insurance company shall be a natural person resident in the European Economic Area or a legal entity incorporated in the European Economic Area.</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>E, GR: The right of establishment does not cover the creation of representative offices or other permanent presence of insurance companies, except where such offices are established as agencies, branches or head offices.</p> <p>FIN: The managing director, at least one auditor and at least one half of the promoters and members of the board of directors and the supervisory board of an insurance company shall have their place of residence in the European Economic Area, unless the Ministry of Social Affairs and Health has granted an exemption.</p> <p>FIN: Foreign insurers cannot get a licence in Finland as a branch to carry on statutory social insurances (statutory pension insurance, statutory accident insurance).</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>F: The establishment of branches is subject to a special authorization for the representative of the branch.</p> <p>I: Access to actuarial profession through natural persons only. Professional associations (no incorporation) among natural persons permitted.</p> <p>I: The authorization of the establishment of branches is ultimately subject to the evaluation of supervisory authorities.</p> <p>IRL: The right of establishment does not cover the creation of representative offices.</p> <p>P: Foreign companies may carry out insurance intermediation in Portugal only through a company formed in accordance with the law of a Community Member State.</p> <p>P: In order to establish a branch in Portugal, foreign companies need to demonstrate prior operational experience of at least five years.</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>S: Foreign companies may only establish as a subsidiary or through a resident agent.</p> <p>S: Insurance broking undertakings not incorporated in Sweden may establish a commercial presence only through a branch.</p> <p>(4) Unbound except as indicated in the horizontal section and subject to the specific conditions:</p> <p>GR: A majority of the members of the board of directors of a company established in Greece shall be nationals of one of the Member States of the Community.</p>	<p>(4) Unbound except as indicated in the horizontal section and subject to the following specific limitations:</p> <p>A: The management of a branch office must consist of two natural persons resident in Austria.</p> <p>DK: The general agent of an insurance branch will need to have resided in Denmark for the last two years unless being a national of one of the Member States of the Community. The Minister of Business and Industry may grant exemption.</p> <p>DK: Residency requirement for managers and the members of the board of directors of a company. However, the Minister of Business and Industry may grant exemption from this requirement. Exemption is granted on a non-discriminatory basis.</p> <p>E, I: Residency requirement for actuarial profession.</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
B. <u>Banking and Other Financial Services</u> (excluding insurance)	<p>(1)<sup>2</sup> B: Establishment in Belgium is required for the provision of investment advisory services.</p> <p>I: Unbound for "promotori di servizi finanziari" (financial salesmen).</p> <p>IRL: The provision of investment services or investment advice requires either (I) authorisation in Ireland, which normally requires that the entity be incorporated or be a partnership or a sole trader, in each case with a head/registered office in Ireland (authorisation may not be required in certain cases, e.g. where a third country service provider has no commercial presence in Ireland and the service is not provided to private individuals), or (II) authorisation in another Member State in accordance with the EC Investment Services Directive.</p> <p>(2)<sup>3</sup> D: Issues of securities denominated in Deutschmarks can be lead managed only by a credit institution, subsidiary or branch, established in Germany.</p>	<p>(1) None</p> <p>(2) None</p>	

<sup>2</sup> I: Provision and transfer of financial information and financial data processing entailing trading of financial instruments may be prohibited where the protection of investors is likely to be seriously prejudiced. Only authorised banks and investment firms must comply with conduct of business rules in providing investment advice concerning financial instruments and advice to undertakings on capital structure, industrial strategy and related matters, and advice and service relating to mergers and acquisition of undertakings. Advisory activity should not include asset management.

<sup>3</sup> I: Authorised persons enabled to conduct collective asset management are deemed responsible for any investment activity conducted by their delegated advisers (Collective asset management, excluding UCITS).

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>FIN: Payments from governmental entities (expenses) shall be transmitted through the Finnish Postal Giro System, which is maintained by the Postipankki Ltd. Exemption from this requirement may be granted on special reason by the Ministry of Finance.</p> <p>GR: Establishment is required for the provision of custodial and depository services involving the administration of interest and principal payments due on securities issued in Greece.</p> <p>UK: Sterling issues, including privately led issues, can be lead managed only by a firm established in the European Economic Area.</p> <p>(3) <u>All Member States:</u></p> <ul style="list-style-type: none"> <li>- The establishment of a specialized management company is required to perform the activities of management of unit trusts and investment companies (Articles 6 and 13 of UCITS Directive, 85/611/EEC).</li> <li>- Only firms having their registered office in the Community can act as depositors of the assets of investment funds (Articles 8.1 and 15.1 of the UCITS Directive, 85/611/EEC).</li> </ul>	<p>(3) F: In addition to French credit institutions, issues denominated in French francs may be lead managed only by French subsidiaries (under French law) of non-French banks which are authorized, based on sufficient means and commitments in Paris of the candidate French subsidiary of a non-French bank. These conditions apply to lead banks running the books. A non-French bank may be, without restrictions or requirement to establish, jointly-lead or co-lead manager of Eurofranc bond issue.</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>A: Only members of the Austrian Stock Exchange may engage in securities trading at the Stock Exchange.</p> <p>A: For trading in foreign exchange and foreign currency authorization of the Austrian National Bank is required.</p> <p>A: Mortgage bonds and municipal bonds may be issued by banks specialized and authorized for this activity.</p> <p>A: For carrying out services of pension fund management a specialized company only for this activity and incorporated as a stock company in Austria is required.</p> <p>B: Any public bid to acquire Belgian securities made by or on behalf of a person, company or institution outside the jurisdiction of one of the Member States of the European Community shall be submitted to the authorisation of the Minister of Finance.</p>	<p>I: Representative offices of foreign intermediaries cannot carry out activities aimed at providing investment services.</p> <p>S: A founder of a banking company shall be a natural person resident in the European Economic Area or a foreign bank. A founder of a savings bank shall be a natural person resident in the European Economic Area.</p> <p>S: A branch of a fund management company not incorporated in Sweden may not operate certain collective investment funds (Allemansfonder), where the investor enjoys certain tax benefits.</p>	<p>S: Restrictions concerning the operation of certain collective investment funds (Allemansfonder) by branches of fund management companies in Sweden are currently reviewed. The Swedish Government intends to propose the abolition of such restrictions in 1998. Subject to the adoption of the necessary legislative amendment by Parliament, Sweden will remove the relevant limitation under the national treatment column.</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>DK: Financial institutions may engage in securities trading on the Copenhagen Stock Exchange only through subsidiaries incorporated in Denmark.</p> <p>E: Financial institutions may engage in securities trading in securities listed on an official stock exchange or in the government securities market only through securities firms incorporated in Spain.</p> <p>FIN: At least one half of the founders, the members of the board of directors, the supervisory board and the delegates, the managing director, the holder of the procuration and the person entitled to sign in the name of the credit institution shall have their place of residence in the European Economic Area, unless the Ministry of Finance grants an exemption. At least one auditor shall have his place of residence in the European Economic Area.</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>FIN: The broker (individual person) on derivative exchange shall have his place of residence in the European Economic Area. Exemption from this requirement may be granted under the conditions set by the Ministry of Finance.</p> <p>FIN: Payments from governmental entities (expenses) shall be transmitted through the Finnish Postal Giro System, which is maintained by the Postipankki Ltd. Exemption from this requirement may be granted on special reason by the Ministry of Finance.</p> <p>GR: Financial institutions may engage in the trading of securities listed on the Athens Stock Exchange only through stock exchange firms incorporated in Greece.</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>GR: For the establishment and operations of branches a minimum amount of foreign exchange must be imported, converted into drachmas and kept in Greece as long as a foreign bank continues to operate in Greece;</p> <p>- Up to four (4) branches this minimum is currently equal to half of the minimum amount of share capital required for a credit institution to be incorporated in Greece;</p> <p>- For the operation of additional branches the minimum amount of capital must be equal to the minimum share capital required for a credit institution to be incorporated in Greece.</p> <p>I: In providing the activity of door-to-door selling, intermediaries must utilize authorized resident financial salesmen.</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>I: Clearing and settlement of securities may be conducted only by the official clearing system. A company authorized by the Bank of Italy in agreement with Consob could be entrusted with the activity of clearing, up to the final settlement of securities.</p> <p>I: The public offer of securities (as provided for under Art. 18 of Law 216/74) other than shares, debt securities (including convertible debt securities) can only be made by Italian limited companies, foreign companies duly authorized, public bodies or companies belonging to local authorities whose assigned capital is not below Lit 2 billion.</p> <p>I: Centralized deposit, custody and administration services can be provided only by the Bank of Italy for Government securities, or by Monte Titoli SpA for shares, securities of a participating nature and other bonds traded in a regulated market.</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>I: In the case of collective investment schemes other than harmonized UCITS under the directive 85/611/EEC, the trustee/ depositary is required to be incorporated in Italy or in another Member State of the European Community, being established through a branch in Italy. Only banks, insurance companies, securities investment companies having their legal head office in the European Community may carry out activity of pension fund resources management. Management companies (closed-end funds and real estate funds) are also required to be incorporated in Italy.</p> <p>IRL: In the case of collective investment schemes constituted as unit trusts and variable capital companies (other than undertakings for collective investment in transferable securities, UCITS), the trustee/depositary and management company is required to be incorporated in Ireland or in another Member State of the Community. In the case of an investment limited partnership, at least one general partner must be incorporated in Ireland.</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>IRL: To become a member of a stock exchange in Ireland, an entity must either (I) be authorised in Ireland, which requires that it be incorporated or be a partnership, with a head/registered office in Ireland, or (II) be authorised in another Member State in accordance with the EC Investment Services Directive.</p> <p>IRL: The provision of investment services or investment advice requires either (I) authorisation in Ireland, which normally requires that the entity be incorporated or be a partnership or a sole trader, in each case with a head/registered office in Ireland (the supervisory authority may also authorise branches of third country entities), or (II) authorisation in another Member State in accordance with the EC Investment Services Directive.</p> <p>P: The establishment of non-EC banks is subject to an authorisation issued, on a case-by-case basis, by the Minister of Finance. The establishment has to contribute to increase the national banking system's efficiency or has to produce significant effects on the internationalisation of the Portuguese economy.</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>P: The services of venture capital may not be provided by branches of venture capital companies having their head office in a non-EC country. Broker-dealer services on the Lisbon Stock Exchange may be provided by broker and dealer companies incorporated in Portugal or by branches of investment firms authorised in another EC country and authorised in their home country to provide those services. Broker and dealer services in the Oporto Derivatives Exchange and in the OTC market may not be provided by branches of non-EC broker/dealer companies.</p> <p>Pension fund management may be provided only by companies incorporated in Portugal and by insurance companies established in Portugal and authorised to take up the life insurance business.</p> <p>UK: Inter-dealer brokers, which are a category of financial institutions dealing in Government debt, are required to be established in the European Economic Area and separately capitalised.</p> <p>S: Undertakings not incorporated in Sweden may establish a commercial presence only through a branch, and in case of banks, also through a representative office.</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>(4) Unbound except as indicated in the horizontal section and subject to the specific conditions:</p> <p>F: Sociétés d'investissement à capital fixe: condition of nationality for the president of the Board of Directors, the Directors-General and no less than two thirds of the administrators, and also, when the securities firm has a Supervisory Board or Council, for the members of such board or its Director-General, and no less than two thirds of the members of the supervisory Council.</p> <p>GR: Credit institutions should name at least two persons who are responsible for the operations of the institution. Condition of residency applies to these persons.</p>	<p>(4) Unbound except as indicated in the horizontal section and subject to the following specific limitations:</p> <p>I: Condition of residence for "promotori di servizi finanziari" (financial salesmen).</p>		