

ORGANIZATION

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Trade in Services

EUROPEAN COMMUNITIES AND THEIR MEMBER STATES

Schedule of Specific Commitments

Supplement 4

(This is authentic in English, French and Spanish)

This text replaces the Financial Services section contained in document
GATS/SC/31/Suppl.1/Rev.1.

**EUROPEAN COMMUNITIES AND THEIR MEMBER STATES
SCHEDULE OF 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
FINANCIAL SERVICES SECTOR			
<p>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).</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>			
<u>Insurance and Insurance-Related Services</u>	<p>A: Promotional activity and intermediation on behalf of a subsidiary established in the Community or of a branch not established in the Community (and retrocession) are prohibited.</p> <p>B: Promotional activity and intermediation on behalf of a subsidiary established in the Community or by a branch established in the Community.</p>	<p>A: Higher premium tax is due for insurance provided by a subsidiary not established in the Community or by a branch established in the Community.</p>	<p>The European Communities and their Member States undertake additional commitments as contained in the attachment.</p>
	<p>C: For purposes in Denmark assist in effecting direct insurance in Denmark, for Danish ships or for property in Denmark owned by companies licensed by Danish law or by Danish law.</p>		

¹ 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 harmonised 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 authorisation 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 capitalisation and other solvency requirements and reporting and publication of accounts requirements or, in the case of insurance, specific guarantee and deposit requirements, a separate capitalisation, and the localisation 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.

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	established in the Community or by a branch		
	include insurance contracts in Germany relating to the branch established in Germany. ing their branch in Finland may offer insurance aph 3 (a) of the Understanding.		
	business in the European Economic Area. ance firms established in the Community.		
	ten only by insurance firms established in the ce regarding risks located in Italy may be panies established in the Community. This ational transport involving imports into Italy. can be underwritten only by firms established in established in the EC may act as intermediaries for plier authorised in Sweden, provided that the dish insurance company belong to the same group of cooperation between them.		
	A: Promotional activity and intermediation on d in the Community or of a branch not established d retrocession) are prohibited. l in the Community or by a branch established in shed in the Community.	A: Higher premium tax is due for insurance bsidiary not established in the Community or by a	

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>purposes in Denmark assist in effecting direct insurance in Denmark, for Danish ships or for property in companies licensed by Danish law or by Danish law.</p> <p>established in the Community or by a branch established in the Community.</p>		
	<p>include insurance contracts in Germany relating to the branch established in Germany.</p> <p>insurance firms established in the Community.</p>		
	<p>taken only by insurance firms established in the Community.</p> <p>insurance contracts regarding risks located in Italy may be taken only by insurance firms established in the Community. This applies to 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 insurance 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>A: The licence for branch offices of foreign insurers, in the home country, does not have a legal form of joint stock company or a mutual insurance company or institution outside the jurisdiction of the European Community shall be submitted to the competent authorities.</p> <p>insurance, a foreign insurer must have been licensed in its country of origin for at least five years.</p>	<p>(3) FIN: The general agent of the foreign insurance company shall have its place of residence in Finland, unless the company has its head office in the European Economic Area.</p> <p>premium income from direct insurance operations.</p>	

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	<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>one an place FIN: The managing director, at least auditor and at least one half of the promoters and members of the board of directors and the supervisory board of 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>licence 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>		
	<p>representative of the branch.</p> <p>ations (no incorporation) among natural persons</p> <p>valuation of supervisory authorities.</p> <p>es.</p> <p>ough a company formed in accordance with the</p> <p>te prior operational experience of at least five</p>		

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	<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>Unbound except as indicated in the horizontal conditions:</p> <p>Greece shall be nationals of one of the Member</p>	<p>Unbound except as indicated in the horizontal</p> <p>of Business and Industry may grant exemption.</p> <p>at. Exemption is granted on a non-discriminatory</p>	
<p><u>Banking and Other Financial Services</u> (insurance)</p>	<p>(1)²</p> <p>authorisation in Ireland, which normally requires that membership or a sole trader, in each case with a authorisation may not be required in certain cases, e.g. (I) as no commercial presence in Ireland and the (II) (qualifications), or (II) authorisation in another Member State pursuant to the Services Directive.</p>	<p>None</p>	<p>The European Communities and their Member States undertake additional commitments as contained in the attachment.</p>

² 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.

	<p>(2)³ D: Issues of securities denominated in branch, established in Germany.</p>	<p>I</p>	
		<p>(2) None</p>	

³ 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).

	<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> <p>-The establishment of a specialised management activities of management of unit trusts and d 13 of UCITS Directive, 85/611/EEC).</p> <p>-Only firms having their registered office in the of the assets of investment funds (Articles 8.1 and /EEC).</p>	<p>F: In addition to French credit institutions, issues french law) of non-French banks which are subsidiary of a non-French bank. These conditions or requirement to establish, jointly-lead or co-lead</p>	
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	<p>g at the Stock Exchange.</p> <p>ian National Bank is required.</p> <p>authorised for this activity.</p> <p>only for this activity and incorporated as a stock</p> <p>company or institution outside the jurisdiction of ocean Community shall be submitted to the nce.</p>	<p>the European Economic Area.</p> <p>its.</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>
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	<p>Stock Exchange only through subsidiaries</p> <p>official stock exchange or in the government entities 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 procurator 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>		
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	<p>residence in the European Economic Area. may be granted under the conditions set by the</p> <p>the Finnish Postal Giro System, which is Exemption from this requirement may be granted Finance.</p> <p>ens Stock Exchange only through stock exchange</p>		
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	<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> <ul style="list-style-type: none"> - 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; - 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>prised financial salesmen resident within the European Communities.</p>		
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	<p>ring system. A company authorised by the Bank of d be entrusted with the activity of clearing, up to</p> <p>han shares, debt securities (including convertible y Italian limited companies, foreign companies mpanies belonging to local authorities whose illion.</p> <p>by the Bank of Italy for Government securities, or by es of a participating nature and other bonds</p>		
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	<p>schemes other than harmonised UCITS under the directive 85/611/EEC, the trustee/ incorporated in Italy or in another Member State of the shed through a branch in Italy. Only banks, investment companies having their legal head in the European Community may carry out management. Management companies (closed- also required to be incorporated in Italy.</p> <p>variable capital companies (other than ent in transferable securities, UCITS), the nt company is required to be incorporated in of the Community. In the case of an investment heral partner must be incorporated in Ireland.</p>		
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	<p>be authorised in Ireland, which requires that it be with a head/registered office in Ireland, or (II) be in accordance with the EC Investment Services</p> <p>authorisation in Ireland, which normally requires a partnership or a sole trader, in each case with a the supervisory authority may also authorise or (II) authorisation in another Member State in Services Directive.</p> <p>ase-by-case basis, by the Minister of Finance. The ncrease the national banking system's efficiency s on the internationalisation of the Portuguese</p>		
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	<p>ital companies having their head office in a non- on the Lisbon Stock Exchange may be provided by oporated in Portugal or by branches of investment try and authorised in their home country to dealer services in the Oporto Derivatives y not be provided by branches of non-EC</p> <p>ortugal and by insurance companies established p the life insurance business.</p> <p>Government debt, are required to be established separately capitalised.</p> <p>e only through a branch, and in case of banks, also</p>		
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	<p>Unbound except as indicated in the horizontal conditions:</p> <p>nt of the Board of Directors, the Directors-General administrators, and also, when the securities firm for the members of such board or its two thirds of the members of the supervisory</p> <p>he operations of the institution. Condition of</p>	<p>Unbound except as indicated in the horizontal</p>	
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**ADDITIONAL COMMITMENTS BY THE EUROPEAN COMMUNITIES
AND THEIR MEMBER STATES**

INSURANCE

- a) The European Communities and their Member States note the close co-operation among the insurance regulatory and supervisory authorities of the Member States and encourage their efforts to promote improved supervisory standards.

- b) Member States will make their best endeavours to consider within 6 months complete applications for licenses to conduct direct insurance underwriting business, through the establishment in a Member State of a subsidiary in accordance with the legislation of that Member State, by an undertaking governed by the laws of a third country. In cases where such applications are refused, the Member State authority will make its best endeavours to notify the undertaking in question and give the reasons for the refusal of the application.
- c) The supervisory authorities of the Member States will make their best endeavours to respond without undue delay to requests for information by applicants on the status of complete applications for licences to conduct direct insurance underwriting business, through the establishment in a Member State of a subsidiary in accordance with the legislation of that Member State by an undertaking governed by the laws of a third country.
- d) The European Communities and their Member States will make their best endeavours to examine any questions pertaining to the smooth operation of the internal market in insurance, and consider any issues that might have an impact on the internal market in insurance.
- e) The European Communities and their Member States note that, as regards motor insurance, under EC law as in force on 31 December 1997, and without prejudice to future legislation, premiums may be calculated taking several risk factors into account.
- f) The European Communities and their Member States note that under EC law, as in force on 31 December 1997, and without prejudice to future legislation, the prior approval by national supervisory authorities of policy conditions and scales of premiums that an insurance undertaking

intends to use is generally not required.

g) The European Communities and their Member States note that under EC law, as in force on 31 December 1997, and without prejudice to future legislation, the prior approval by national supervisory authorities of increases in premium rates is generally not required.

OTHER FINANCIAL SERVICES

a) In application of the relevant EC Directives, Member States will make their best endeavours to consider within 12 months complete applications for licenses to conduct banking activities, through the establishment in a Member State of a subsidiary in accordance with the legislation of that Member State, by an undertaking governed by the laws of a third country. In cases where such applications are refused, the Member State will make its best endeavours to notify the undertaking in question and give the reasons for the refusal of the application.

b) Member States will make their best endeavours to respond without undue delay to requests for information by applicants on the status of complete applications for licenses to conduct banking activities, through the establishment in a Member State of a subsidiary in accordance with the legislation of that Member State, by an undertaking governed by the laws of a third country.

c) In application of the relevant EC Directives, Member States will make their best endeavours to consider within 6 months complete applications for licenses to conduct investment services in the securities field, as defined in the Investment Services Directive, through the establishment in a Member State of a subsidiary in accordance with the legislation of that Member State, by an undertaking governed by the laws of a third country. In cases where such applications are refused, the Member State will make its best endeavours to notify the undertaking in question and give the reasons for the refusal of the application.

d) Member States will make their best endeavours to respond without undue delay to requests for information by applicants on the status of complete applications for licenses to conduct investment services in the securities area, through the establishment in a Member State of a subsidiary in accordance with the legislation of that Member State, by an undertaking governed by the laws of a third country.
