

Financial Services

Classification and scheduling issues

Co-existence of two classification systems under the GATS

- W/120 – CPC
- Annex on Financial Services

A. All insurance and insurance-related services 812**

- a. Life, accident and health insurance services 8121
- b. Non-life insurance services 8129
- c. Reinsurance and retrocession 81299*
- d. Services auxiliary to insurance (including broking and agency services) 8140

B. Banking and other financial services (excl. insurance)

- a. Acceptance of deposits and other repayable funds from the public 8115-8119
- b. Lending of all types, incl., inter alia, consumer credit, mortgage credit, factoring and financing of commercial transaction 8113
- c. Financial leasing 8112
- d. All payment and money transmission services 81339**
- e. Guarantees and commitments 81199**
- f. Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following: ... 81339**+ 81333+81321
- g. Participation in issues of all kinds of securities, incl. under-writing and placement as agent (whether publicly or privately) and provision of service related to such issues 8132
- h. Money broking 81339**
- i. Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services 8119+**81323*
- j. Settlement and clearing services for financial assets, incl. securities, derivative products, and other negotiable instruments 81339** or 81319**
- k. Advisory and other auxiliary financial services on all the activities listed in Article 1B of MTN.TNC/W/50, including ... 8131 or 8133
- l. Provision and transfer of financial information, and financial data processing and related software by providers of other financial services 8131

Annex on Financial Services

Definitions: sectoral description

Insurance and insurance-related services

- Direct insurance (both life and non-life)
- Reinsurance and retrocession
- Insurance intermediation
- Auxiliary insurance services

Banking and others financial services (exclu. Insurance)

- Acceptance of deposits
- Lending of all types
- Financial leasing
- Payment systems
- Guarantees and commitments
- Trading
- Participation in issues of securities
- Money brokering
- Asset management
- Settlement and clearing services
- Provision and transfer of financial information or data

Discrepancies between Annex and W/120: (1)

Annex on Financial Services	Document W/120	
Insurance and insurance related services	All insurance and insurance-related services	812 **
(i) Direct insurance (incl. co-insurance) (a) life (b) non-life	a) life, accident and health insurance services b) non-life	8121 8129
(ii) reinsurance and retrocession	c) reinsurance and retrocession	81299*
(iii) insurance intermediation, such as brokerage and agency	d) services auxiliary to insurance (incl. broking and agency services)	8140
(iv) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services		

Discrepancies between Annex and W/120: (2)

Banking and other financial services (excl. insurance)	Banking and other financial services (excl. insurance)	
(viii) All payment and money transmission services, incl. credit, charge and debit cards, travellers cheques and bankers drafts.	d) All payment and money transmission services	81339* *
(xvi) Advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (v) through (xv), including...	k) Advisory and other auxiliary financial services on all the activities...	8131 or 8133

Scheduling issues for discussion

- Sectoral description
 - Choose which classification system?
 - If a Member's existing commitments are based on the definition of Annex, could/should this Member add CPC references in its future commitments?
- Headnote: is it necessary and how should it be drafted?
- Distinction between modes 1 and 2
- Restrictions on cross-border supply
- Restrictions on commercial presence

Headnote:

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

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
7. FINANCIAL SERVICES			
<p>Head note:</p> <ol style="list-style-type: none"><li data-bbox="104 618 1837 853">1. The commitments on financial services are made in accordance with the General Agreement on Trade in Services (GATS) and the Annex on Financial Services. All the commitments in this Schedule are subject to domestic laws, guidelines, rules and regulations, terms and conditions of the relevant authorities in country X, consistent with Article VI of the GATS and paragraph 2 of the Annex on Financial Services.<li data-bbox="104 893 1837 1029">2. 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 data-bbox="104 1069 1837 1110">3. The commitments indicated below are subject to an economic needs test.			

Headnote

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

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
7. FINANCIAL SERVICES			
A. <u>All Insurance and Insurance Related Services</u> <i>Headnote</i> <i>Mode 3</i> <ul style="list-style-type: none">- <i>The acquisition of shares or any other interest (by a resident or non-resident) in a registered insurer of Country X resulting in the holding of 25% or more of all the shares or other interest in that business, requires the written approval of the Regulatory Authority.</i>- <i>The executive chairman, public officer and the majority of directors must be resident in Country X.</i>- <i>Life insurance actuaries must be resident in Country X.</i>			

Headnote

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

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
7. FINANCIAL SERVICES			
B. BANKING AND OTHER FINANCIAL SERVICES (excl. insurance) NOTE: General limitations related to the sub-sector 1. Legal entity must be registered or incorporated in Country X 2. Legal entity must be licensed or designated by the appropriate authority 3. No person may, without prior approval of the Central Bank of Country X, acquire more than 25% voting shares in a bank or financial institution unless that person is listed on a recognized stock exchange. The Central Bank of County X may prescribe a different voting share limit for financial businesses.			

Modes 1 and 2

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
<p>A. <u>All Insurance and Insurance Related Services</u></p> <p>a) Direct <u>life insurance</u> and non-life (CPC 8121)</p>	<p>1) Unbound</p> <p>2) None, except for insurance of assets and insurances which are compulsory in Mauritius including compulsory Third Party Insurance under the Road Traffic Act 1963. Unbound</p> <p>3) None</p> <p>4) Unbound, except as indicated in the horizontal commitments.</p>	<p>1) None Unbound</p> <p>2) None Unbound</p> <p>3) None</p> <p>4) Unbound, except as indicated in the horizontal commitments.</p>	

Restrictions on cross-border supply

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
<p><u>A. Insurance and in Insurance-related Services</u></p> <p>a. Direct Insurance Life</p>	<p>1) Companies must be incorporated/registered and licenced in Mauritius for long term insurance business</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound, except as indicated in the horizontal section</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound, except as indicated in the horizontal section</p>	

Restrictions on cross-border supply

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
<p>B. Banking and other financial services (excluding insurance)</p> <p>a. ...</p> <p>b. ...</p> <p>...</p>	<p>1) Unbound, except for companies involved in asset management, collective investment schemes and advisory services. These companies need to register with the local supervisory authority.</p> <p>2) Unbound, except for provision and transfer of financial information and financial data processing.</p> <p>3) ...</p> <p>4) Unbound, except as indicated in the horizontal section</p>	<p>1) Unbound</p> <p>2) Unbound</p> <p>3) ...</p> <p>4) Unbound, except as indicated in the horizontal section</p>	

Restrictions on cross-border supply

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
<p>B. Banking and other financial services (excluding insurance)</p> <p>a. ...</p> <p>b. ...</p> <p>...</p>	<p>1) In accordance with Article 3 of the Exchange regulations, the BCC charges a fee for exchange control, 2 ‰ on any payment made or received by licensed banks to or from abroad, as well as any export without currency repatriation</p> <p>2) None</p> <p>3) ...</p> <p>4) Unbound, except as indicated in the horizontal section</p>	<p>1) None</p> <p>2) None</p> <p>3) ...</p> <p>4) Unbound, except as indicated in the horizontal section</p>	

Restrictions on cross-border supply

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
<p>B. Banking and other financial services (excluding insurance)</p> <p>b. Lending of all types, incl. inter alia, consumer credit, mortgage credit, factoring and financing of commercial transaction (CPC 8113)</p>	<p>1) None*</p> <p>2) None</p> <p>3) Only through subsidiaries of foreign-established banks</p> <p>4) Unbound, except as indicated in the horizontal section</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound, except as indicated in the horizontal section</p>	

* Subject to exchange control regulations

Restrictions on commercial presence

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
<p><u>A. Insurance and in Insurance-related Services</u></p> <p>d. Auxiliary services, (CPC 8140) including broking and agency services, excluding CPC 81409 (other services auxiliary to insurance and pension funding)</p>	<p>1) Unbound</p> <p>2) None</p> <p>3) Only through a resident intermediary</p> <p>4) Unbound, except as indicated in the horizontal section</p>	<p>1) Unbound</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound, except as indicated in the horizontal section</p>	

Restrictions on commercial presence

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
<p>B. Banking and other financial services (excluding insurance)</p> <ul style="list-style-type: none"> a. ... (cpc ...) b. ... c. ... d. ... e. ... f. ... g. ... h. ... i. ... j. ... k. ... l. ... 	<ul style="list-style-type: none"> 1) ... 2) ... 3) Credit institutions must be legal entities. Subject to specific legal provisions, they shall take the form of a limited liability company requiring prior approval of the President of the Republic, shall have a statutory minimum paid-up capital determined by the BCC (set at 10 million U.S. dollars) and answer to a local and general economic need (Section 15 of the Banking Act No. 003 2002) 4) Unbound, except as indicated in the horizontal section 	<ul style="list-style-type: none"> 1) ... 2) ... 3) None 4) Unbound, except as indicated in the horizontal section 	

Should the following measures be scheduled?

1. The conditions of establishment of a branch of a foreign bank in the Country X are as follows:
 - Minimum capital of 10 million dollars paid by the parent bank;
 - Deposit in writing by the parent bank by which it agrees to assume all the responsibilities and commitments of its branch in Country X;
 - Meeting the needs of banking in Country X
2. Foreign exchange, capital flows and regulations of all kinds between Country X and abroad or between a resident and non-resident, are only undertaken intermediaries approved by the Central Bank of X. The authorization may be revoked at any time.
3. Insurance Agents must act only for insurers licensed in Country X