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TRADE AND AGRICULTURE DIRECTORATE
TRADE COMMITTEE

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Working Party of the Trade Committee

STRI: DRAFT LIST OF MEASURES FOR INSURANCE SERVICES

6-7 March 2013
The OECD Conference Centre, Paris

Action required: For discussion.

Background: At its November 2012 meeting, the Trade Committee approved the expansion of coverage in the STRI to financial services and logistics, to be completed by June 2014. In accordance with this timeline, the Secretariat has started its work on the new STRI sectors. This document presents a list of measures proposed to be included in the STRI regulatory database for insurance services as part of the financial services sector. The list is based on discussions at the expert meeting on financial services held in November 2012, consultations with internal and external experts, and other sources including sector studies, government websites, bilateral and preferential agreements, GATS schedules and World Bank, IMF and IAIS documents.

Link to the Programme of Work: This document corresponds to the output results on the Services Trade Restrictiveness Index (3.1.2.1.1) foreseen in PWB 2013-14.

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TABLE OF CONTENTS

Tables

STRI: DRAFT LIST OF MEASURES FOR THE INSURANCE SECTOR

1. This note presents a preliminary list of regulations affecting trade in insurance services to be included in the OECD services trade restrictiveness index (STRI) project as part of the financial services sector.

Definition of the sector

2. Insurance services are classified as part of the Financial Services sector in the W/120 classification (section 7A). The corresponding Central Product Classification (CPC) codes are: Insurance and pension services excluding reinsurance services, except compulsory social security service (section 713); Reinsurance Services (section 714); and Services auxiliary to insurance and pensions (section 716). The STRI covers the following insurance and related activities:

- Life insurance
- Non-life retail insurance and commercial insurance, including property and casualty, liability, export, credit and travel insurance
- Insurance of large risks, including marine, aviation and transport (MAT)
- Reinsurance and retrocession
- Insurance broking and agency services
- Actuarial services

3. The subsectors excluded from the STRI relate to the provision of social insurance:

- Health insurance (CPC 71322): for the purpose of the STRI, the Secretariat suggests that private health insurance will be considered in the index for health services.
- Pensions (CPC 71312, 71313) which are primarily provided by national or regional government schemes in many Member countries and for which the market is driven by social policy choices.

4. The database covers all modes of provision by foreign services suppliers. Cross-border provision (mode 1) is the dominant mode for insurance of large commercial risks and reinsurance. It is also used, but to a small extent, to provide retail life and non-life insurance services; cross-border supply is highly restricted in many countries for these types of insurance. Modes 1 and 2 can however be difficult to distinguish for insurance related to trade in goods and MAT. Commercial presence (mode 3) is the primary mode of supply for life insurance and direct insurance of small risks, where proximity to the customer matters for competitiveness. Finally, the presence of natural persons (mode 4) mainly concerns the temporary presence of intra-corporate transferees and contractual services suppliers, as employees of insurance companies or providing auxiliary services such as insurance intermediation.

5. A number of measures will be recorded separately for life insurance, non-life direct insurance, MAT and reinsurance as regulations often distinguish between these sub-sectors. Some restrictions apply specifically to insurance intermediaries and to actuaries. Insurance brokers and agents account for a small share of the total insurance services market but are involved in most commercial insurance transactions and provide a key facilitating role as “matchmakers” between customers and insurance carriers – in particular for complex insurance products purchased by large businesses. Brokers also support a competitive environment by making information on risks, policies and premiums more readily available to consumers.

Comment [A1]: We think that the OECD presents a very comprehensive list of trade barriers in insurance.

However, besides entry barriers, some consideration should be done to barriers to exit as there are certain jurisdictions which make it very difficult for companies to dispose of interests.

This acts as a general disincentive for future investments in that jurisdiction and also has the potential to generate significant costs for the insurers involved as they attempt to meet ever increasing requirements to achieve a permission that will ultimately not be granted.

It is a barrier to efficient allocation of resources, and can prevent companies that need to perform significant restructuring from releasing value in non-core sections of the business e.g. to support core business or high-growth potential operations elsewhere.

Comment [A2]: We disagree with the exclusion of health as private health insurance falls within the scope of the general insurance heading under both the CPC, virtually all GATS commitments and the majority of bilateral and regional agreements.

Comment [A3]: We question this as many markets are in transition from pay as you go pensions and defined benefit schemes to individual account self-funded pensions. This transition is driven by both social policy choices and budget realities for virtually all members.

Actuaries provide risk assessment services which are essential inputs into the design of insurance policies and the calculation of premiums and regulatory reserves.

6. The database contains information on insurance services of all OECD member countries and key partner countries. Regulatory barriers are under five policy areas: (1) restrictions on foreign ownership and other market entry conditions; (2) restrictions on the movement of people; (3) other discriminatory measures and international standards; (4) barriers to competition and public ownership; (5) regulatory transparency and administrative requirements.

List of measures

Restrictions on foreign ownership and other market entry conditions

Foreign equity restrictions: maximum foreign equity share allowed (%) (life, non-life, MAT, reinsurance, brokerage)

7. Foreign equity restrictions are defined as restrictions on the equity share foreign natural or juridical persons can hold in an insurance services company in the country in question. The limit refers to the combined share of non-residents (not limits on individual non-resident natural or juridical persons, if any).

Statutory or other legal limits to the number or proportion of shares that can be acquired by foreign investors in insurance or reinsurance companies that are controlled by national state or provincial governments, if any (life, non-life, reinsurance)

8. This measure only applies if there is at least one insurance or reinsurance firm controlled by a national, state or provincial government. "Controlled by" means that the government holds at least a blocking minority or a golden share in the company. The equity threshold for "control" may vary between countries according to legislation on the required majority for certain corporate decisions.

Restrictions on legal form (life, non-life, reinsurance):

- Only joint ventures are allowed
- Restrictions on establishing foreign branches
- Restrictions on establishing foreign subsidiaries
- *De jure* or *de facto* requirements to convert from one form of legal entity to another[1]

9. Restrictions on legal form apply when non-resident insurance or reinsurance companies can only establish a commercial presence through a joint venture with a local firm, or are banned from opening either branches or subsidiaries. The most common restriction is a prohibition on foreign branches, i.e. a requirement that foreign providers supply the domestic market through locally incorporated subsidiaries.

[1] In late 2011, the International Association of Insurance Supervisors (IAIS) undertook a new work stream to review the supervision of cross-border operations through branches. As of April 2013, the Issues Paper on Supervision of Cross-Border Operations Through Branches ("Issue Paper") is still at the drafting stage. Several drafts of the Issues Paper have suggested without any empirical basis that supervisors impose requirements on foreign service suppliers with respect to the legal form of an entity, including conversion from a branch to a subsidiary. A group of major industry associations has expressed concerns over these drafts, stating, for example, that compulsory conversion from branch to subsidiary is "inconsistent with the General Agreement on Trade in Services Article XVI for jurisdictions that accepted such commitments." See, for example, the Global Federation of Insurance Association (GFIA), *Observer Comments to Third Draft IAIS Issues Paper on Branches* (February 18, 2013), and *Observer Comments to IGSC on the Issues Paper on Supervision of Cross-Border Operations through Branches* (December 14, 2012) http://www.gfiainsurance.org/en/Position-papers/Position-papers/.

Comment [A4]: We think that the (partial) nationalization of insurance operations should be included as a barrier to trade.

This is something that has happened recently in a country in Europe. Furthermore, similar ideas have been put forward in other countries, where Governments facing budget deficits consider transferring pillar 2 funds to pillar 1 in order to reduce the short term deficit.

Nationality or residency requirements for board of directors and managers (life, non-life, reinsurance)

- Board of directors: majority must be nationals
- Board of directors: majority must be residents
- Board of directors: at least one must be national
- Board of directors: at least one must be resident
- Manager must be national
- Manager must be resident

10. These measures refer to requirements that either the majority or at least one of the members of the board and the manager of an insurance or reinsurance company established in the host country is national or resident therein. It captures the freedom foreign investors have to appoint board members and managers of their choice. Majority refers to simple majority. The question refers to legal forms that are required by law to have a board or equivalent (e.g. corporations).

Screening of foreign investments

- Foreign investors must show net economic benefits

11. An economic needs test is understood as a requirement that foreign investors must show that the investment will generate additional employment, income or technology; and not merely replace existing local capacity. The most common variables that the regulator takes into account when assessing economic needs are the number of suppliers, the level of competition and the size of the market.

- Approval unless contrary to national interest

12. If there is a requirement by law or regulation that foreign investors must have prior approval and such approval is not automatic, it is recorded as a restriction in the database. Note that such screening is considered a restriction even if no insurance firm hitherto has been denied market access under the regulation. The non-discriminatory requirement that all insurance companies must be licensed before they are allowed to operate is not considered as a restriction.

- Notification

13. Notification is the lightest measure under the screening heading and applies when notification involves the fulfilment of a set of minimum standards, but no prior approval is needed. If notification is required for purely statistical purposes, however, it is not recorded as a restriction.

Restrictions on the type of shares or bonds held by foreign investors (life, non-life, reinsurance)

14. These measures require for instance that foreign investors hold only or partly shares with non-voting rights in insurance or reinsurance companies.

Conditions on subsequent transfer of capital and investments

15. This measure entails restrictions on the conversion of funds to and from foreign currency; compulsory transfer of ownership to local firms over a given time period; whether there are restrictions on the free transfer of shares or other proprietary rights; restrictions on foreign shareholders' rights such as payment of dividends or reimbursement of capital upon liquidation; and whether there are restrictions on the scale and scope of future expansions or downsizing. In particular, restrictions on the repatriation of profits to the head office of foreign branches or subsidiaries are recorded.

Restrictions on cross-border mergers and acquisitions

16. This measure applies to specific restrictions on cross-border mergers and acquisitions (M&A) over and above general restrictions on M&A for competition reasons (anti-trust regulation), if any.

Restrictions related to licenses or other- restrictions on in country establishment or expansion

- Quotas or economic needs tests are applied in the allocation of insurance licences or other authority to operate in country (life, non-life, reinsurance)

17. The number of operating insurance providers may be limited by quotas or by economic needs tests that are applied as part of the licensing process. Quotas and economic needs tests can be discriminatory or apply on a non-discriminatory basis to both domestic and foreign suppliers. Economic needs tests may include an assessment of the firm's impact on employment, competition or more general requirements for public benefits, and may be applied at the national or regional level.

- Period of time since an applicant's incorporation in its home country before a licence can be sought (life, non-life, reinsurance)

18. This measure can refer to the duration of existence of a non-resident provider or to the time it has been operating in its home country in the same classes of insurance as those for which it is seeking a licence.

- Criteria to obtain an insurance licence or other authority to operate in country are more stringent for foreign companies (life, non-life, reinsurance)

19. This measure refers to discriminatory criteria other than proving that the foreign insurance carrier has been conducting insurance business in its home country for a certain period of time (which is recorded in the previous measure). Examples of such criteria are a higher minimum capital threshold or higher initial deposit requirements for foreign subsidiaries than for similar domestic insurers, or requirements that assets covering the minimum capital and solvency margins must be localised in the host country.

Limits on the ownership of insurance companies

- By non-financial firms
- By non-insurance financial firms

20. These measures record laws and regulations that limit the ownership of non-financial firms and non-insurance financial firms (i.e. banks and other financial companies) in insurance companies. Such limits set a maximum percentage of an insurance carrier's capital or voting shares that can be owned by all non-financial firms or all non-insurance financial firms combined (not limits imposed for prudential reasons on the share held by individual firms or firms engaged in specific types of activities, if any).

Comment [A5]: We understand that some of the aspects raised under paragraphs 20, 21 and 22 may not be barriers to trade but risk management rules, according to international standards.

For instance IAIS ICP 4.9.1 states that "A licence should clearly state the classification of insurance activities that the insurer is licensed to conduct. Regarding classification, legislation should categorise insurance business into types and classes of insurance (at least into life and non-life)".

Restrictions on the range of activities

- Separation of life and non-life insurance

21. Separation of life and non-life insurance specifies that branches or subsidiaries of the same insurer may not offer both life insurance policies and non-life insurance contracts.

- An insurance company is prohibited from engaging in other financial activities (banking, securities)

22. The Secretariat proposes to gather information on this measure for the STRI pending further consideration on whether it should be considered a trade restriction. This measure refers to regulations that forbid insurance suppliers from engaging in banking or securities activities, either directly or through subsidiaries. Such prohibitions limit the diversification options of insurance companies and the ability of financial conglomerates to establish a commercial presence.

- Some insurance activities are reserved for statutory monopolies

23. The primary insurance products most frequently reserved for statutory (state-owned or private) monopolies are the insurance of political risks, export credit insurance and workers compensation. Reinsurance monopolies also fall under this measure. The provision of social insurance (e.g. pensions, health, unemployment) is not considered as it is not covered in the STRI

- Some insurance activities are reserved for domestic suppliers

24. This measure refers to regulations that ban the purchase of some insurance products from foreign-owned suppliers, in particular compulsory lines of insurance such as third-party motor liability insurance.

Commercial presence is required to provide cross-border insurance services

- Life insurance products
- Personal property and casualty insurance
- Commercial insurance
- Maritime, aviation and other transport
- Reinsurance and retrocession

25. Requirements for commercial presence are the most restrictive for mode 1 supply as they prohibit cross-border provision for given insurance products.

Other restrictions on the purchase of insurance abroad

- The parties must prove that similar insurance is not available in the host country in order to purchase insurance or reinsurance from a non-established foreign supplier (non-life, MAT, reinsurance)

26. This requirement gives domestic insurers or reinsurers the right of first refusal and limits cross-border insurance provision to underwriting large or unusual risks. It typically involves proving that several domestic insurers have refused to cover the risk before the insurance contract can be purchased abroad.

- Residents must use the services of a resident insurance intermediary to purchase insurance from a non-established foreign supplier (life, non-life, MAT, reinsurance)

27. This measure requires that cross-border transactions go through a locally established broker or agent. It does not restrict the range of insurance policies that may be sold but limits the freedom of non-resident suppliers to market and sell their products directly to households and corporations. It also provides favourable treatment to resident agents or brokers relative to foreign insurance intermediaries.

Restrictions on the movement of people

Quotas, labour market tests and duration of stay

- Temporary movement of natural persons is restricted by quotas
- Temporary movement of natural persons is restricted by labour market tests
- Duration of stay for natural persons: number of months allowed by the initial work/residence permit

28. These three measures distinguish between intra-corporate transferees, contractual services suppliers and independent services suppliers. These categories are commonly found in the General Agreement on Trade in Services (GATS) schedules and regional free trade agreements and some OECD countries use these terms in their legislation or regulation. When countries do not use these terms in their regulations, the STRI database explains which visa categories are considered equivalent. These measures are usually not sector-specific.

Nationality or citizenship is required for a license to practice as insurance broker or agent

29. This measure conditions the ability to supply insurance broking or agency services on the basis of nationality.

Residency is required for a license to practice as insurance broker or agent

30. This requirement can take the form of prior or permanent residency. Prior or permanent residency refers to a requirement which extends for more than 12 months. Domicile, which requires the establishment of an address or registration in the host country, is not covered in this measure.

Qualifications and professional experience criteria for foreign insurance brokers and agents

- A local degree is required to practice
- A local examination is required to practice
- At least one year of local professional experience in the sector is required to practice

31. Many countries require insurance intermediaries to hold a licence or be approved by the relevant authority. The requirements applying to foreigners who are already licensed as intermediaries in their home countries can include completing a training course, passing an exam, validating a certain period of local professional experience, or a combination of these.

Qualification and professional experience criteria for foreign actuaries

- Membership in the actuarial professional association is closed to foreigners
- Absence of a process for the recognition of foreign higher education degrees
- A local examination is required to practice
- At least one year of local professional experience in the sector is required to practice

32. These measures capture the openness of the actuarial profession to foreign nationals. In most countries, actuaries are organised into a professional association and only members of the association can use the title of actuary. Exclusion from the professional association then means that foreign citizens cannot practice. The process of accreditation to be admitted as members of the profession may include the recognition of a foreign university degree, a local examination or a period of local professional experience. With respect to the recognition of degrees, the answer is “no” if there is a process codified in the law or by the professional association that provides for substantive criteria and administrative procedures for recognising higher education degrees in actuarial science gained in foreign countries, as opposed to an ad hoc process.

Appointed actuaries must be nationals or residents

33. In regulated insurance companies, the appointed actuary or chief actuary is legally responsible for the calculation of policy liabilities and regulatory reserves. The role of the appointed actuary is defined in

most countries by law or by the supervising authority; however this concept does not exist in some countries.

Other discriminatory measures and international standards

Foreign suppliers are treated less favourably regarding taxes and eligibility to subsidies (life, non-life, reinsurance)

34. Discriminatory tax treatment relates to higher direct or indirect taxes charged to foreign providers of insurance services in the host market. It also includes differential tax treatment of consumers or corporations purchasing insurance policies from foreign suppliers, such as different rates of premium tax or stamp duty, or differences in the tax deductibility of insurance premiums. Subsidies refer to government support granted only or more favourably to local insurance companies in the local market. They may take the form of grants, loans at preferential rates, direct and indirect tax incentives, or provision of goods or services by the government at prices below market levels. Withholding taxes is not considered a trade restriction.

Discrimination related to foreign participation in public procurement

35. Discriminatory measures in public procurement may be explicit or implicit. Explicit access discrimination includes stricter price and other criteria for inclusion on the list of prequalified suppliers, or conditions to source personnel locally for selection of tenders and contract award. Implicit discrimination may take the form of conditions related to financial guarantees and technical qualifications of suppliers. It can also arise when procurement entities do not award contracts to capable suppliers on the basis of either the lowest tender or the most advantageous as set forth in the notice. This measure includes restrictions on the provision of insurance services to national or provincial governments if they do not retain their own risks, and to state-owned enterprises or companies in which governments own an equity share. For instance, foreign insurance companies may not be allowed to provide surety bonds on government contracts.

Restrictions on writing insurance contracts in foreign currency

36. Underwriting insurance policies in foreign currency typically carries higher exchange rate risk for domestic providers than for foreign providers. When insurance contracts in foreign currency are prohibited, foreign insurance carriers are likely to be the most affected by the restriction as they have easier access to foreign currency income and hedging.

National standards deviate from international standards

- National supervision and risk management standards deviate from the International Association of Insurance Supervisors (IAIS) principles
- National accounting rules in accordance with the International Financial Reporting Standards (IFRS)

37. These measures record whether national laws, regulations or relevant standard-setters require the use of or have adopted the international standards on insurance supervision, solvency requirements and accounting rules. The adoption of international standards reduces the cost of compliance for providers operating in several countries. Conversely, departures from international standards, for instance regarding accounting practices, impose a burden on foreign insurance suppliers which have to keep accounts and report to regulatory bodies according to several conflicting sets of rules.

Comment [A6]: National supervision standards were established in line with the IAIS principles and also in accordance with each jurisdiction's circumstances, and therefore, there is generally a gap in its regulatory procedures between jurisdictions. Besides, IAIS is still in the process of developing ComFrame for the IAIG.

This is also true for accounting requirements where convergence discussions are on-going between the different standard setters worldwide.

Considering these facts, it is difficult to endorse compliance with either IAIS principles or IFRS as a measure of trade restrictiveness."

Mandatory cessions by foreign-owned insurers to domestic reinsurers (life, non-life)

38. The obligation to cede a share of risks to domestic reinsurers creates a discriminatory constraint on foreign insurers that does not apply to domestically-owned insurers. It prevents foreign primary insurers from freely choosing how much risk to retain, and from conducting business with foreign reinsurers with whom they may wish to reinsure risks underwritten in several markets. It also favours domestic reinsurance companies and limits the cross-border provision of reinsurance services by foreign suppliers. Mandatory sessions applying similarly to domestic and foreign insurers are not recorded here but covered under Barriers to competition and public ownership.

Limits on the share of risks that can be ceded to foreign reinsurers (life, non-life)

39. Quantitative limits on cessions to foreign reinsurers favour domestic reinsurance companies which benefit from reserved market shares, and limit the cross-border provision of reinsurance services by foreign suppliers. Limits on the total share of risks that can be ceded that do not discriminate against foreign reinsurers are not recorded here but covered under Barriers to competition and public ownership.

Discriminatory requirements on foreign reinsurance suppliers regarding collateralisation and the localisation of assets (life, non-life)

40. This measure includes, in particular, a requirement that foreign reinsurers must deposit funds with the primary insurers they reinsure for the latter to get credit for reinsurance ceded. Under such regulation, a primary insurer may not take credit in its statutory financial statement (with effects on solvency margins and prudential requirements) for reinsurance placed with reinsurers established abroad, unless the ceded risk is fully collateralised by the reinsurer, without regard to the financial strength of the reinsurer. This requirement increases the costs associated with the cross-border operations of foreign reinsurers compared to domestic reinsurers.

Barriers to competition and public ownership

When appeal procedures are available in domestic regulatory systems, they are open to affected or interested foreign parties as well

41. This measure relates to discrimination of foreign companies concerning access to appeal procedures related to decisions taken by a regulatory body. The STRI does not provide a definition of “affected party” or “interested party”, and the distinction between them. Rather, the definition in each country is taken as given, and the question is whether the same criteria for being considered an “affected party” or “interested party” apply to foreign and local suppliers and foreign suppliers have the same access to appeal procedures.

Foreign firms have redress when business practices are perceived to restrict competition in a given market

42. This measure relates to the extent and channels through which foreign firms can have redress when business practices (e.g. by local firms with a strong market position) restrict competition. Examples of channels open to foreign firms are competition agencies, trade policy bodies, regulatory bodies or through private rights of action. When foreign suppliers have redress through one or more of these channels the measure is not considered restrictive.

Arbitration structures are in place to deal with reinsurance disputes

43. Commercial arbitration offers a speedier and more flexible process than court litigation to deal with disputes between primary insurers and their reinsurers. As the resources and bargaining power may be uneven between the parties, dispute resolution mechanisms increase legal certainty and facilitate cross-border trade. Arbitration proceedings are also confidential and are not disclosed to the public and competitors. Note that the absence of arbitration mechanisms is considered a barrier to competition.

National, state or provincial government control at least one major firm in the sector (life, non-life, reinsurance)

44. Major firm means one of the 10 largest life insurance, non-life insurance or reinsurance firms in the country. Government control means that the government holds at least a blocking minority or a golden share in the company.

Publicly-controlled firms or undertakings are subject to an exclusion or exemption, either complete or partial, from the application of the licensing requirements and laws and regulations that govern their private competitors, including the general competition law

45. This measure applies only if there is at least one major insurance or reinsurance company controlled by national, state or provincial government. Exclusion results from actions by the courts, legislature or government to remove publicly-controlled firms wholly or partially from the application of laws that govern their private competitors, including the general competition law or the jurisdiction of insurance regulatory agencies and competition agencies~~y's~~ ~~jurisdiction~~. Exemptions arise under the licensing requirements and laws and regulations that govern their private competitors, including the competition law, and represent decisions by the enforcement body or others about how the law should be applied.

Publicly-controlled firms or undertakings are subject to a universal service obligation in insurance pursuant to statutory and regulatory schemes which favour one or more domestic suppliers relative to foreign suppliers.

45. a This measure applies in situations where publicly-controlled firms or undertakings are given a statutory universal service obligation in insurance and are required to implement that obligation in a manner that discriminates in favour of one or more domestic firms~~,~~ (public or private), relative to foreign insurance suppliers.

Commercial data processed by the government relevant to the marketing of insurance is shared with publicly-controlled firms or undertakings, or their corporate successors-in-interest, on an exclusive basis.

45. b This measure refers to government measures which give publicly-controlled insurance suppliers exclusive access to valuable commercial data possessed by the government, such as customer lists and customer data.

Compulsory cession of all or a portion of risks to specified reinsurers (life, non-life)

46. Some countries impose that a minimum share of the risk portfolio of primary insurers must be ceded to specific reinsurers, which may be designated reinsurance companies or domestic reinsurers in general. Compulsory cessions restrict the options of primary insurers when making decisions about their risk management and reinsurance strategy. Such provisions also reduce the potential market share and profitability of other reinsurance companies that do not benefit from these provisions and cannot compete on the same grounds as established reinsurers. This measure only covers restrictions that apply equally to domestic and foreign primary insurers established in the country; discriminatory cession requirements are covered under Other discriminatory measures and international standards.

Upper limit on the share of risks that can be ceded to reinsurers (life, non-life)

47. This measure refers to requirements that at least a certain percentage of risks must be retained by the first insurer in some or all of its lines of business. It limits the possible amount of ceded insurance. If there are limits on the share of premiums ceded to a single reinsurer or to affiliates of the original policyholder, but no limits on cessions to all reinsurers, it should not be recorded as a restriction. This measure only covers restrictions that do not discriminate between risks ceded to domestic and foreign reinsurers; discriminatory limits are covered under Other discriminatory measures and international standards.

Restrictions on the nature of assets in which an insurer can hold funds (life, non-life)

48. Examples of restrictions on asset holdings are prohibitions on investments of insurance companies in common equity, real estate, or foreign assets. General requirements regarding diversification, currency matching and duration matching should not be considered as restrictions.

Restrictions on pricing and services (life, compulsory insurance, other non-life)

- Insurance premiums, fees or margins are regulated
- Other restrictions on the contract, such as on the term or value of the insurance policy

49. These restrictions can apply to one or more types of insurance policies. Legal provisions that regulate the terms of the contract strictly for consumer protection purposes (such as information and disclosure requirements) are not considered as restrictive.

Approval by the regulatory authority required for new insurance products, rates or services

50. ~~This measure~~This ~~records~~measure ~~regulations~~records ~~that~~regulations that ~~require insurance~~require ~~companies~~insurance companies ~~to seek~~to seek ~~formal approval~~formal approval before offering an insurance product they were not previously providing. This includes cases in which a separate ~~licence~~license must be obtained for each type of primary insurance offered. Such requirement imposes additional costs on insurance companies or restricts the scope of services that can be provided by a licensed direct insurer. It should not be listed as restrictive if it applies exclusively to the provision of compulsory insurance (such as third-party motor liability insurance or professional liability insurance) or to the provision of life insurance by non-life insurance undertakings.

Restrictions on advertising and promotion

51. If insurance services providers are restricted in advertising their products, then new entrants in the sector may find it difficult to gain market shares from incumbent competitors. The need for regulation to protect consumers is however recognised. For instance, regulations requiring that advertising must not be misleading are not regarded as a restriction. Restrictions or prohibitions on advertising insurance services to households can concern specific types of insurance (e.g. life insurance) or specific means of promotion (TV, internet, canvass letters). Restrictions sometimes apply to all insurance firms but in other instances, prohibitions apply specifically to cross-border providers.

Independence of the supervisory authority

- The supervisor has full authority over licensing, the enforcement of prudential measures and resolution and does not share regulatory or supervisory functions with another governmental authority or authorities
- Length of term of heads of the supervisory authority
- The government can overrule the decisions of the supervisor
- The government has discretionary control over funding of the supervisory agency

52. A non-independent supervisory authority creates a less predictable policy and regulatory environment for insurance companies. A regulator lacking independence towards the government may also unduly favour domestic insurance providers over foreign providers. The four proposed criteria assess the degree of independence from the government as regards decision-making and people and guarantees for the independence of people and funding.

Regulatory transparency and administrative requirements

~~Regulations are published or otherwise communicated to the public prior to entry into force~~The jurisdiction is fully consistent with the OECD's relevant guidelines including the Policy Framework for Effective and Efficient Financial Regulation.

53. The measure relates to the obligation of countries to publish laws, regulations, and administrative decisions prior to entry into force, allowing a reasonable period of time between publication and their effective date, so that foreign suppliers may become acquainted with relevant regulations. The source of this measure is the administrative procedures law of the country, and/or sector-specific regulations or decisions mandating publication. International best practice is to publish new regulation within a specified time frame prior to its effective date, preferably on the internet. It also relates to the clear identification of a problem, the selection of the effective policy response that is least costly to the industry and periodic assessments for effectiveness.

~~There is a public comment procedure open to interested persons, including foreign suppliers~~

54. This measure captures whether there is a prior notice and public comment procedure open to

interested persons, including foreign suppliers, and/or the regulator has a formal mechanism for consultation with stakeholders that is open to foreign private parties. Draft regulations are posted on the internet or otherwise published in a manner that makes them accessible for all financial services suppliers, and suppliers are allowed to comment on the regulation before it is being implemented.

Range of visa processing time (days)

55. This measure captures the ease of business travel, which may be an important complement to cross~~-border supply~~border ~~and~~supply ~~commercial~~and ~~presence~~commercial ~~in~~presence ~~financial~~in ~~services~~financial services. ~~The information~~The ~~entailed~~information ~~in~~entailed ~~this~~in this measure is the number of days it takes on average to process a visa application for business visitors. The number of days may depend on the country of the applicant. In order to have comparable information on visa processing time, information on visa processing time is gathered from all Member countries' embassies in India, Australia and Japan. For Australia and Japan their US embassies are consulted. The number entered in the database is the simple average of these three. India is chosen because all OECD countries require a visa for business visitors from that country and India is the second largest exporter of services other than transport and travel in the world and the only significant non-OECD exporter of services to all OECD Members.

Number of working days to complete all mandatory procedures to register a company

56. The measure includes the number of working days it normally takes to register a foreign subsidiary, including pre-registration and registration procedures. Together with the next measure, it addresses efficiency in implementation of regulation.

Total cost to complete all mandatory procedures to register a company

57. The measure includes all the fees and charges that a company has to pay for pre-registration and registration procedures. It does not include the cost of the investors company's time or foregone profits.

Licences are allocated according to publicly available criteria

58. This measure captures whether laws and regulations specify the criteria for approval to operate as an insurance carrier. Non-transparent criteria for licence allocation allow discretionary behaviour of the issuing authority and reduce the security and predictability for foreign insurance providers.

Table 1. Measures included in the STRI for insurance services

Code	Measure
	Restrictions on foreign ownership and other market entry conditions
	Foreign equity restrictions: maximum foreign equity share allowed (%) (life, non-life, MAT, reinsurance, brokerage)
	Limits on the shares that can be acquired by foreign investors in publicly-controlled firms (life, non-life, reinsurance)
	There are restrictions on legal form (life, non-life, reinsurance)
	Only joint ventures are allowed
	There are restrictions on establishing foreign branches
	There are restrictions on establishing foreign subsidiaries
	Requirements for board of directors/manager(life, non-life, reinsurance)
	Board of directors: majority must be nationals
	Board of directors: majority must be residents
	Board of directors: at least one must be national
	Board of directors: at least one must be resident
	Manager must be national
	Manager must be resident
	Screening of investment
	Foreign investors must show net economic benefits
	Approval unless contrary to national interest
	Notification
	Restrictions on the type of shares or bonds held by foreign investors (life, non-life, reinsurance)
	Conditions on subsequent transfer of capital and investments
	Restrictions on cross-border mergers and acquisitions
	Quotas or economic needs tests are applied in the allocation of licences (life, non-life, reinsurance)
	Period of time since an applicant's incorporation in its home country before obtaining a licence (life, non-life, reinsurance)
	Criteria to obtain a licence are more stringent for foreign companies (life, non-life, reinsurance)
	There are limits on the ownership of insurance companies
	By non-financial firms
	By non-insurance financial firms
	Separation of life and non-life insurance
	An insurance company is prohibited from engaging in other financial activities
	Banking
	Securities
	Some insurance activities are reserved for statutory monopolies
	Some insurance activities are reserved for domestic suppliers
	Commercial presence is required to provide cross-border insurance services
	Life insurance
	Personal property and casualty insurance
	Commercial insurance
	MAT
	Reinsurance and retrocession
	Restrictions on the purchase of insurance abroad
	Similar insurance must not be available in the country (non-life, MAT, reinsurance)
	Residents must use the services of a resident insurance intermediary

Code	Measure
	Other restrictions
	Restrictions to the movement of people
	Temporary movement of natural persons is restricted by quotas
	Quotas: intra-corporate transferees
	Quotas: contractual services suppliers
	Quotas: independent services suppliers
	Temporary movement of natural persons is restricted by labour market tests
	Labour market tests: intra-corporate transferees
	Labour market tests: contractual services suppliers
	Labour market tests: independent services suppliers
	Duration of stay for natural persons is limited
	Limitation on duration of stay for intra-corporate transferees (months)
	Limitation on duration of stay for contractual services suppliers is limited to (months)
	Limitations on duration of stay for independent services suppliers is limited to (months)
	Criteria to practice as an insurance broker or agent
	Nationality or citizenship is required
	Residency is required
	Qualifications and professional experience criteria for foreign brokers and agents
	A local degree is required to practice
	A local examination is required to practice
	At least one year of local professional experience in the sector is required to practice
	Qualifications and professional experience criteria for foreign actuaries
	Membership in the professional association is closed to foreigners
	Absence of a process for the recognition of foreign higher education degrees
	A local examination is required to practice
	At least one year of local professional experience in the sector is required to practice
	Other restrictions
	Other discriminatory measures and international standards
	Foreign suppliers are treated less favourably regarding taxes and eligibility to subsidies (life, non-life, reinsurance)
	Discrimination related to foreign participation in public procurement
	Restrictions on writing insurance contracts in foreign currency
	National standards deviate from international standards
	Supervision and risk management standards (IAIS principles)
	Accounting rules (IFRS standards)
	Mandatory cessions by foreign-owned insurers to domestic reinsurers (life, non-life)
	Limits on the share of risks that can be ceded to foreign reinsurers (life, non-life)
	Discriminatory requirements regarding collateralisation and the localisation of assets (life, non-life)
	Other restrictions
	Barriers to competition and public ownership
	When appeal procedures are available in domestic regulatory systems, they are open to affected or interested foreign parties as well
	Foreign parties have redress when business practices are perceived to restrict competition in a given market
	Arbitration structures are in place to deal with reinsurance disputes

Code	Measure
	National, state or provincial government control at least one major firm in the sector (life, non-life, reinsurance)
	Publicly-controlled firms or undertakings are subject to an exclusion or exemption, either complete or partial, from the application of the general competition law
	Compulsory cession of all or a portion of risks to specified reinsurers (life, non-life)
	Upper limit on the share of risks that can be ceded to reinsurers (life, non-life)
	Restrictions on the nature of assets in which insurers can hold funds (life, non-life)
	Restrictions on pricing and services (life, compulsory insurance, other non-life)
	Insurance premiums, fees or margins are regulated
	Restrictions on the term of value of insurance policies
	Approval by the regulatory authority required for new insurance products, rates or services
	Restrictions on advertising and promotion
	Independence of the supervisory authority
	The supervisor has full authority over licensing, the enforcement of prudential measures and resolution
	Length of term of heads of the supervisory authority
	The government can overrule the decisions of the supervisor
	The government has discretionary control over funding of the supervisory agency
	Other restrictions
	Regulatory transparency and administrative requirements—OECD's Policy Framework
	Regulations are published or otherwise communicated to the public prior to entry into force
	There is a public comments procedures open to interested persons, including foreign suppliers
	Range of visa processing time (days)
	Time to complete all official procedures required to register a company (in calendar days)
	Total cost to complete all official procedures required to register a company (in USD)
	Licences are allocated according to publicly available criteria
	Other restrictions