

## WTO and TPP – A Comparison of Vietnam’s Commitments Regarding Investment In Financial Services

The table below tries to compare the existing commitments of Vietnam under WTO Agreement with the commitments under TPP for financial services. This table is contributed by Tran Thi Thu Thao, a VILAF associate.

**Notes:**

- No limitation means no limits on national treatments in terms of foreign ownership, form of investment or other restriction.
- Branch is generally not allowed unless otherwise indicated.
- Share acquisition is generally allowed with no foreign ownership limitation for committed sectors and sub-sectors unless otherwise indicated.
- Underlined words indicate new commitment under TPP.

Sectors and sub-sectors	WTO	TPP
<b>FINANCIAL SERVICES</b>		
1. Insurance and Insurance-Related Services	1.1. <i>Scope of commitment:</i> Including: 1.1.1. Direct insurance: (a) Life insurance, excluding health insurance services (b) Non-life insurance services 1.1.2. Reinsurance and retrocession 1.1.3. Insurance intermediation (such as brokerage and agency)	1.4. <i>Scope of commitment:</i> Including: 1.4.1. Direct insurance ( <u>including co-insurance</u> ): (a) Life; and (b) Non-life 1.4.2. Reinsurance and retrocession 1.4.3. Insurance intermediation (such as brokerage and agency)

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	<p>1.1.4. Services auxiliary to insurance (such as consultancy, actuarial, risk assessment and claim settlement)</p> <p>1.2. No limitation</p> <p>1.3. Non-life branching of foreign insurance enterprises is allowed, subject to prudential regulations.</p>	<p>1.4.4. Services auxiliary to insurance (such as consultancy, actuarial, risk assessment and claim settlement services)</p> <p>1.5. No limitation on form of investment and foreign ownership limit, <u>except that additional requirements on minimum years of experience, value of assets, profit making, credit ratings and compliance with laws may be imposed.</u></p> <p>1.6. Only branching of foreign non-life insurance enterprises is allowed, <u>subject to satisfaction of conditions on operational and financial capacity of the investor and on the cooperation between insurance regulators of Vietnam and the home country of the investor.</u></p>
2. Banking and Other Financial Services	<p>2.1. <i>Scope of commitment:</i> Including:</p> <p>2.1.1. Acceptance of deposits and other repayable funds from the public;</p> <p>2.1.2. Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;</p> <p>2.1.3. Financial leasing;</p> <p>2.1.4. All payment and money transmission services,</p>	<p>2.5. <i>Scope of commitment:</i> Including:</p> <p>2.5.1. Acceptance of deposits and other repayable funds from the public;</p> <p>2.5.2. Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;</p> <p>2.5.3. Financial leasing;</p> <p>2.5.4. All payment and money transmission services,</p>

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	<p>including credit, charge and debit cards, travellers' cheques and bankers drafts;</p> <p>2.1.5. Guarantees and commitment;</p> <p>2.1.6. Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:</p> <p>(a) Money market instrument (including cheques, bills, certificates of deposits);</p> <p>(b) Foreign exchange;</p> <p>(c) Exchange rate and interest rate instrument including products such as swaps, forward rate agreements; and</p> <p>(d) Bullion;</p> <p>2.1.7. Money broking;</p> <p>2.1.8. Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;</p> <p>2.1.9. Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable</p>	<p>including credit, charge and debit cards, travellers' cheques and bankers drafts;</p> <p>2.5.5. Guarantees and commitment;</p> <p>2.5.6. Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:</p> <p>(a) Money market instrument (including cheques, bills, certificates of deposits);</p> <p>(b) Foreign exchange;</p> <p>(c) <u>Derivative products, including futures and options</u></p> <p>(d) Exchange rate and interest rate instrument including products such as swaps, forward rate agreements;</p> <p>(e) <u>Transferable securities</u>; and</p> <p>(f) <u>Other negotiable instruments and financial assets, including bullion;</u></p> <p>2.5.7. <u>Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to</u></p>

Sectors and sub-sectors	WTO	TPP
	<p>instruments;</p> <p>2.1.10. Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and</p> <p>2.1.11. Advisory, intermediation and other auxiliary financial services on all activities listed in from 2.1.1 to 2.1.10, including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.</p> <p>2.2. <i>Form of investment:</i></p> <p>2.2.1. Foreign commercial banks may set up: representative office, branch, commercial joint venture bank with foreign capital contribution not exceeding 50% of chartered capital, joint venture financial leasing company, 100% foreign-invested financial leasing company, joint venture finance company, 100% foreign-invested finance company, and 100% foreign-owned bank. Except for the establishment of representative office or branch, the foreign commercial bank must have total assets of more than US\$10 billion at the end of the year prior to application.</p> <p>2.2.2. Foreign finance companies may set up: representative office, joint venture finance company, 100% foreign-invested</p>	<p><u>such issues:</u></p> <p>2.5.8. Money broking;</p> <p>2.5.9. Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;</p> <p>2.5.10. Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;</p> <p>2.5.11. Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and</p> <p>2.5.12. Advisory, intermediation and other auxiliary financial services on all activities listed in from 2.5.1 to 2.5.11, including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.</p> <p>2.6. <i>Form of investment:</i> same as WTO's commitment (see 2.2). In addition,</p> <p>2.6.1. <u>Only persons having Vietnamese nationality are allowed to be founding shareholders of joint stock</u></p>

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	<p>finance company, joint venture financial leasing company, and 100% foreign-invested financial leasing company. Except for the establishment of representative office, the foreign finance company must have total assets of more than US\$10 billion at the end of the year prior to application.</p> <p>2.2.3. Foreign financial leasing companies may set up representative office, joint venture financial leasing company and 100% foreign-invested financial leasing company. Except for the establishment of representative office, the foreign financial leasing company must have total assets of more than US\$10 billion at the end of the year prior to application.</p> <p>2.3. <i>Foreign ownership limit:</i></p> <p>2.3.1. Equity participation by foreign credit institutions in equitized Vietnamese state-owned banks: same level as equity participation by Vietnamese banks.</p> <p>2.3.2. Capital contribution in the form of buying shares in joint-stock commercial bank: not exceeding 30% of the bank's chartered capital, unless otherwise provided by Viet Nam's laws or authorized by a Viet Nam's competent authority.</p> <p>2.4. Branching of a foreign commercial bank is allowed, provided that:</p>	<p><u>commercial banks;</u></p> <p>2.6.2. <u>Only one representative office of a foreign credit institution is allowed in each province or central city;</u></p> <p>2.6.3. <u>A foreign credit institution does not include branch or an entity that has no independent legal existence of investor; and</u></p> <p>2.6.4. <u>General directors, deputy general directors, chief accountants, directors of branches and directors of subsidiary companies must reside in Viet Nam during their term of office whenever they assume the positions in the Board of Directors of a credit institution.</u></p> <p>2.7. <i>Foreign ownership limit:</i></p> <p>2.7.1. Capital contribution in the form of buying shares in joint-stock commercial bank:</p> <p>(a) not exceeding 30% of the bank's chartered capital, unless otherwise provided by Viet Nam's laws or authorized by a Viet Nam's competent authority; and</p> <p>(b) <u>for a foreign strategic investor and its affiliated persons in Vietnam, not exceeding 20% of the</u></p>

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	<p>2.4.1. The relevant foreign parent commercial bank must have total assets of more than US\$20 billion at the end of the year prior to application; and</p> <p>2.4.2. The branch is not allowed to open other transaction points outside its branch office.</p>	<p><u>bank's chartered capital.</u></p> <p><u>Exception on foreign ownership limit may be granted by the Prime Minister in special cases to restructure weak Vietnamese credit institutions.</u></p> <p>2.8. Branching: same as WTO's commitment (see 2.4). <u>In addition,</u></p> <p><u>2.8.1. a foreign bank branch is not allowed to carry out activities outside the scope of activities of the foreign bank in its home country, to make capital contribution or purchase shares; and</u></p> <p><u>2.8.2. prudential ratios of foreign bank branch in Viet Nam must be calculated based on its regulatory capital, which must be located in Viet Nam.</u></p>
3. Securities	<p>3.1. <i>Scope of commitment:</i> Including:</p> <p>3.1.1. Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:</p> <p>(a) Derivative products incl. futures and options;</p> <p>(b) Transferable securities; and</p>	<p>3.5. <i>Scope of commitment:</i> Not entirely clear. No detailed clarification of the services falling under Securities sub-sector.</p> <p>3.6. <i>Form of investment:</i> No limitation except that</p> <p>3.6.1. <u>Foreign participation from above 49% to less than 100% of charter capital of a securities company, fund management company is subject to conditions and approvals by the government of Vietnam for a period of</u></p>

Sectors and sub-sectors	WTO	TPP
	<p>(c) Other negotiable instruments and financial assets, excluding bullion.</p> <p>3.1.2. Participation in issues of all kinds of securities including under-writing and placement as an agent (publicly or privately), provision of services related to such issues;</p> <p>3.1.3. Asset management, such as portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services;</p> <p>3.1.4. Settlement and clearing services for securities, derivative products, and other securities-related instruments;</p> <p>3.1.5. Provision and transfer of financial information, and related software by suppliers of securities services; and</p> <p>3.1.6. Advisory, intermediation and other auxiliary securities-related excluding 3.1.1, including investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.</p> <p>3.2. <i>Form of investment:</i> foreign securities service suppliers may set up representative office, joint-ventures with Vietnamese partners in which foreign capital contribution not exceeding 49%, and 100% foreign invested securities companies.</p>	<p><u>five year after effective date</u>; and</p> <p>3.6.2. <u>The Viet Nam Securities Depository is the only organization authorised to act as a Central Securities Depository which typically supply services on registration, depository, clearing and settlement of securities and securities transactions.</u></p> <p>3.7. <i>Foreign ownership limit:</i> Unlimited.</p> <p>3.8. Branching of foreign securities companies and <u>fund management companies</u> are subject to conditions and approvals by the government of Vietnam.</p>

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	<p>3.3. <i>Foreign ownership limit: unlimited.</i></p> <p>3.4. Branching of foreign securities services suppliers for services from 3.1.3 - 3.1.6 is allowed.</p>	