

# THE EVOLVING PRUDENTIAL EXCEPTIONS IN REGIONAL TRADE AGREEMENTS

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## ABSTRACT

*Paragraph 2(a) of the Annex on Financial Services of the General Agreement on Trade in Services (GATS), known as the “GATS Prudential Exception”, plays a crucial role in connecting international trade laws and international financial laws. Commentators, however, are less satisfied with it. To explore other possible prudential exceptions, in this paper, I investigate the regional trade agreements reported to the World Trade Organization that contain a prudential exception. I compare the different nexus requirements, control mechanisms, and other special variations contained therein and find that Europe, Latin America, and China are the three major promoters of changes. Based on these findings, I map out the trend of the evolving prudential exceptions in bilateral settings. I identify a general trend toward a more restrictive use of the prudential exception, which moves slightly toward more financial liberalization. I also identify some progressive ways toward financial liberalization for policymakers to consider, including strengthening the nexus requirement, clarifying rather than strengthening the control mechanism, and starting from some specific prudential measures.*

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*This investigation suggests the importance of pacing when developing the prudential exception.*

**KEYWORDS:** *prudential exception, anti-avoidance clause, for prudential reasons, Argentina — financial services, regional trade agreement, financial liberalization, prudential regulation, international finance*