

Transatlantic Financial Regulatory Coherence Coalition: Financial Regulation in the TTIP

The undersigned associations and business groups today announce the formation of the Transatlantic Financial Regulatory Coherence (TFRC) Coalition. The Coalition has been brought together by its strong and shared belief across the financial services and related professional services industry on both sides of the Atlantic that improving regulatory cooperation between the EU and U.S. must be a priority. We believe that a comprehensive Transatlantic Trade and Investment Partnership (TTIP) agreement that includes both market-opening measures and an effective framework that delivers regulatory coherence in financial services is an optimal path toward that goal.

All members of this Coalition have held this view since the TTIP negotiations commenced in 2013. As time has advanced, the evidence of regulatory inconsistencies and potential market fragmentation has only multiplied as have their economic costs. This has served to strengthen our belief that TTIP offers a unique opportunity which other fora do not. That conviction has motivated us to pool our resources through this Coalition to educate on the benefits of a comprehensive approach to financial services within TTIP. We stand ready to work with policymakers and stakeholders on both sides, as well as with our members and their customers, towards this goal.

Our support for TTIP

Our Coalition strongly supports the negotiation of a high-standard TTIP and believes an ambitious and comprehensive deal will deliver benefits to business, consumers and society.

At a time of continued economic uncertainty, a robust TTIP agreement will boost growth and opportunities in the transatlantic economy. Successful conclusion of the negotiations will catalyze investment as well as trade in goods and services between the EU and U.S. markets, contributing to job creation on both sides of the Atlantic.

The importance of financial services

Financial services are fundamental to economies on both sides of the Atlantic. As well as the important economic contribution that they make in their own right, they also create economic growth by serving the end-user businesses and communities that function as the backbone of the economy – helping innovators develop technologies and supporting manufacturers and service suppliers by providing them with much needed capital. It is no coincidence that the world's two largest economies – the EU and the U.S. – are those with the most developed and diverse capital markets.

Cross-border regulatory divergences and their costs

The most pressing impediments to crossborder finance between EU and U.S. capital markets are the result of insufficient regulatory cooperation. These are what can be most usefully addressed in TTIP and where the full potential value in financial services can be unlocked.

The problems of inconsistent or duplicative regulations between the EU and the U.S. over recent years have been well documented. For example, a 2015 report¹ by the B20² highlighted that “*Regulatory inconsistencies raise significant concerns for lenders that have to contend with different regulations across jurisdictions and heighten financial and reputation risk from unintended non-compliance....(and) give rise to regulatory arbitrage and to business models that are more difficult to supervise and resolve*”.

This has manifested itself in extraterritorial or duplicative regulations and also inconsistent rules which hamper crossborder investments. Specific policy problems have included:

- Poor synchronization in the implementation of Basel III;
- Differences over bank structure and geographic requirements for capital;
- Bank resolution planning divergences;
- Important inconsistencies in over-the-counter (OTC) derivatives regulation;
- Divergent regulatory regimes for non-bank investment firms.

The situation has improved little over time. While the EU and U.S. recently came to an agreement on recognizing one another’s central counterparty (CCP) regimes, it came after a four year period of discussion characterized by huge uncertainties for market participants and, as a consequence, costs from lost investment in both economies.

Principles of an effective coordination mechanism

Going forward, there are three important principles that any successful regulatory dialogue should include and TTIP should recognize in its focus on delivering regulatory coherence:

- **A focus on discussion at an early stage in the policymaking process** - It is important for effective cross-border regulatory policy solutions that an avenue

¹ B20 Financing Growth Taskforce Policy Paper, September 2015.

http://www.b20coalition.org/common/uploaded_files/library/main/1441280772_b20turkeyfgtf.pdf

² The B20 Coalition brings together leading independent business associations from G20 economies and advocates on behalf of more than 6.7 million small, medium and large companies. <http://www.b20coalition.org/>

exists at the *beginning* of the process to work through the effects of proposed regulation on market stability and the compliance challenges facing institutions operating in both jurisdictions. Cross-border issues should be considered before, not after, they become problems;

- **A focus exclusively on future policymaking and regulatory development** – The Coalition is not seeking changes in existing regulations via a TTIP agreement. However, as cross-border capital flows continue to grow, the transatlantic policy landscape will not stand still: rather, new rules and regulations affecting the financial services industry will continue to need to be devised as the landscape evolves. For example, there is increasing attention being paid by policymakers around the world to market conduct, data transfer, cyber security and financial technology (fintech), and these and other issues will require close regulatory coordination. In the EU, important questions regarding Capital Markets Union and Structural Banking Reform are being discussed – questions with policy implications that go well beyond the EU;
- **A focus on transparency and accountability** – Mechanisms promoting transparency improve the development of regulation by encouraging all stakeholders to express perspectives and allowing them to understand the objectives that policymakers are trying to achieve. Accountability is also important to ensuring that policymakers follow up and ultimately meet their commitments. Existing platforms for EU/U.S. dialogue in financial services are lacking in both of these important features.

The EU-U.S. Financial Markets Regulatory Dialogue

The Coalition welcomes ongoing efforts to strengthen the Financial Markets Regulatory Dialogue (FMRD) and would look favorably upon the opportunity to engage with policymakers in doing so. We believe efforts towards enhancing the FMRD could yield welcome improvements in cooperation and may yield a helpful blue-print on which to build. Those efforts *alone*, however, cannot provide the benefits arising from a joint commitment to an agreed framework to deliver regulatory coherence within TTIP. Regulatory dialogues do not enjoy the structural safeguards that inclusion in the TTIP agreement could bring, especially when tensions arise and protectionist pressures are high.

Why the Coalition believes TTIP is the best route to better coordination

TTIP provides a unique opportunity to create a strong structure for regulatory consultation and cooperation that would ensure that regulators focus on cross-border issues as they are developing, and have the awareness to head off conflicts or

unnecessary differences that could be avoided. This Coalition believes TTIP is the optimal path in that:

- TTIP will be a government-to-government agreement, focusing on what governments do that restricts the cross-border flow of goods and services, and it is dedicated to EU-U.S. commercial issues, including regulatory coherence;
- TTIP is under active negotiation, with multiple agencies on both sides already involved;
- TTIP has a structure designed to cover regulatory issues affecting trade in goods (tariffs, rules of origin, customs procedures), trade in services (embracing issues including cross-border business and data-flows), procurement, investment, intellectual property and movement of people.

A robust regulatory dialogue between regulators in the EU and U.S., carried out under clear requirements agreed within TTIP by the respective financial supervisors, would reduce conflict and improve the efficiency of cross border regulations to the benefit of market participants and regulators.

TTIP would strengthen cross-border regulation with no effect on existing domestic rules and standards. Policy on financial services regulation remains entirely the preserve of financial regulators. The role of TTIP is to define mechanisms for effective consultation and cooperation and through that to deliver coherence.

Conclusion

The potential benefits from meaningful improvements in transatlantic regulatory cooperation are significant. The TTIP agreement itself is an opportunity to boost growth, increase opportunities for businesses of all sizes and create wider and more competitive access for consumers on both sides of the Atlantic. Deepening and broadening the transatlantic capital market place – already the largest in the world – would enhance the global competitiveness of the financial services industry and its customers. That requires strengthened regulatory cooperation, coordination and coherence between these markets and TTIP offers the optimal path to it.

This Coalition shares with EU and U.S. negotiators the aspiration to conclude an ambitious and comprehensive TTIP agreement in 2016. Securing the best deal that maximizes job creation and economic growth for both sides is crucial, and that includes mechanisms to support effective and consistent transatlantic financial services regulation. The Coalition is ready to support U.S. and EU policymakers in crafting effective provisions in the TTIP that can assure this outcome.

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