

Brussels, 18 July 2016

Improvements in EU-U.S. Regulatory Cooperation

Since 2002, the Financial Markets Regulatory Dialogue (FMRD) has acted as a valuable forum between the European Union (EU) and the United States (U.S.) to inform each other of regulatory issues of interest and concern. With the worst of the global financial crisis now behind us, there has been significant law- and rule-making activity worldwide, largely, but not exclusively, spearheaded by the G-20 reform agenda. Confidence in both financial systems is returning, but continued cooperation to achieve regulatory objectives remains warranted. This strengthens the case for even more purposeful bilateral regulatory cooperation geared towards the further promotion of financial stability; investor and consumer protection; fair, orderly, and efficient markets; and capital formation on both sides of the Atlantic.

At the 3 February 2016 FMRD meeting in Washington, DC, participants from the European Commission and the U.S. Treasury Department committed to review the functioning of the dialogue with a view to improving EU-U.S. cooperation on financial regulation in upcoming FMRD meetings.

With this in mind, the European Commission and the U.S. Treasury are to enhance the dialogue with the following:

1. The FMRD should bear a name that better explains its activities: Joint EU-U.S. Financial Regulatory Forum (“the Forum”). The Forum should be understood to represent the views of the European Commission and the U.S. Treasury, incorporating input from other participants.
2. The Forum should be used as a platform for enabling regulatory cooperation as early as practicable in our respective law-making and rule-making processes, with the general operational objective to **improve transparency, reduce uncertainty, identify potential cross-border implementation issues, work towards avoiding regulatory arbitrage and towards compatibility, as appropriate, of each other’s standards**, and, when relevant, **promote domestic implementation consistent with international standards**. It goes without saying that our regulatory dialogue should not restrict the ability of either jurisdiction to implement regulatory or other legal measures that it considers appropriate. Bilateral contacts may continue, as appropriate, outside the Forum on any issue related to our ongoing regulatory cooperation.
3. The Commission and the U.S. Treasury, respectively, should invite all relevant financial regulatory and supervisory bodies, including, where appropriate and in relation to a specific issue, supervisors from EU Member States. Other participants will be invited to participate in its activities, as appropriate, although individual participation of experts or representatives may not be identical at all times.
4. The Forum should be prepared in advance by means of meetings or calls at senior technical level and/or at expert level on the basis of a mutually acceptable work plan linked, as

appropriate, to the EU and U.S. rule-making processes and taking into account the G-20 agenda.

5. On specific issues that may require further follow-up between Forum meetings, groups of experts with technical knowledge of domestic and international regulatory issues may undertake, as appropriate, mutually acceptable assignments to inform future Forum discussions. Such follow-up may include setting up *ad hoc* groups, meetings, or calls between relevant experts on issues that require attention, for example, U.S. agencies' rule-making, the European Commission's legislative proposals, and European supervisory authorities' technical standards issuance, and calls ahead of key G-20 and other multilateral meetings. Where practicable, participants may share positions on agenda items prior to these international meetings. As appropriate, experts from the groups or calls should provide updates to the Forum.
6. The Forum may, as appropriate and in a manner consistent with applicable law, discuss any issue relevant to the regulation and supervision of the financial sector, due regard being had to G-20 Summit Conclusions where appropriate.
7. Discussions in the Forum should not restrict the ability of either side to implement regulatory or other legal measures that it considers appropriate. Nevertheless, the Forum may endeavour to explore and consider whether it is necessary to address any unintended effects on financial markets or provision of financial services, as appropriate and in a manner consistent with applicable law.
8. If appropriate, and in a manner consistent with applicable policy, law, and good administrative practices, Forum activities may include:
 - the promotion of timely domestic implementation of international regulatory standards in the financial sector taking into account the specific characteristics of the U.S. and EU regulatory regimes;
 - the sharing of information on intended new regulations to allow for a timely identification of potential cross-border implementation issues, to the extent that such information is available and can be shared with foreign authorities;
 - discussions of the respective scope, rules, and processes concerning U.S. substituted compliance or EU equivalence, such discussions reflecting an outcomes-based assessment in close consultation with the relevant authorities on both sides, for issues that may arise and that the U.S. and EU participants mutually identify as appropriate;
 - the sharing of data-driven economic and risk analysis, to the extent that such analysis has been conducted and can be shared with foreign authorities, particularly where measures may have, or have had, a significant impact on the financial services sector from either jurisdiction or may result in market fragmentation. If appropriate, such sharing may include analysis of benefits to, as well as any unintended consequences on, financial

services or financial markets, to the extent that such analysis has been conducted and can be shared with foreign authorities;

- discussions about the potential economic impacts of proposed rules, to the extent that such analysis has been conducted and can be shared with foreign authorities;
 - exchanges of views on regulatory issues in a bilateral context, paying due respect to the regulatory interests of both the home and host supervisors and incorporating the views of EU supervisors and U.S. supervisors;
 - discussions on issues of cooperation in multilateral contexts as appropriate and relevant in specific areas, and, if needed, reflecting views of EU supervisors and of U.S. supervisors.
9. The European Commission and the U.S. Treasury should release a joint statement after each Forum meeting to give visibility to its outcomes. The statement may note progress on relevant topics, where necessary and appropriate. The European Commission and the U.S. Treasury should organise debriefings of relevant stakeholders after each Forum meeting.
10. Reflecting the interest of both sides in enhancing financial regulatory cooperation, the Member of the Commission responsible for Financial Stability, Financial Services and the Capital Markets Union and United States Secretary of the Treasury should meet once per year to discuss financial regulatory matters and, in particular, to review the functioning of the Forum.

In the interest of clarity, this understanding does not create rights or obligations under international or domestic law.