



BUSINESSEUROPE



March 9, 2016

The Honorable Michael Froman
United States Trade Representative
600 17th Street NW
Washington, D.C. 20508
United States

Commissioner Cecilia Malmström
European Commissioner for Trade
European Commission
Rue de la Loi/Wetstraat 200
1049 Brussels
Belgium

Dear Ambassador Froman and Commissioner Malmström:

The business community has called for an ambitious, comprehensive, and high-standard trade and investment agreement between the United States and the European Union (EU). The Transatlantic Trade and Investment Partnership (TTIP) will only achieve this objective if it treats financial services in a comprehensive manner that addresses both the market access and regulatory cooperation dimensions, as proposed for every other sector in the agreement.

Financial services are hugely important to both the U.S. and EU economies. Well-functioning capital markets are a linchpin of our respective economies and serve as a backbone to transatlantic trade and investment, helping innovators develop technologies and support both manufacturers and service providers. Furthermore, an institutionalized dialogue between financial services regulators would allow the European Union and the United States to adopt a more consistent approach in prevention of and reaction to a crisis, increasing the effectiveness of measures undertaken by either of them.

The regulatory component is central to TTIP and its potential. Therefore, it must not only eliminate any remaining market access barriers for financial services, but also and foremost ensure interoperability of regulatory frameworks and avoid insufficient consideration for international impacts when regulating.

Horizontal commitments to good regulatory practices and general principles and processes of regulatory cooperation must be applied to all sectors, including

financial services. Further, as is the plan for other sectors, enhanced sector-specific regulatory cooperation arrangements must also be made for financial services.

For financial services, this would be accomplished by TTIP incorporating a robust regulatory dialogue between the United States and the EU, led by the respective regulators¹ and charged with the responsibility to avoid conflicting rules wherever feasible and desirable, recognize comparable regulatory outcomes, and accept compliance efforts found in each regulatory system. Doing so will improve the efficiency of regulations that have a cross-border impact and benefit our capital markets, the EU and U.S. economies, customers, market participants and regulators.

TTIP should set a framework for successful dialogue between financial services regulators that adheres to these principles:

- **It must provide for discussions at an early stage in the policymaking process**, increasing the potential for delivering interoperable rules in the future and allowing market participants to comply with both regimes simultaneously. Dialogue should take place at the beginning of the regulatory process so that policy solutions can be identified that include cross-border considerations and take into account the effects on market stability and institutions operating in both jurisdictions. This would also allow regulators to establish and maintain a dialogue that follows the developments of the rules and regulations affecting the financial services industry, including on issues that have international policy implications.
- **It must retain the prudential exemption** under which a financial regulator may impose regulation that is inconsistent with a trade agreement obligation for legitimate prudential reasons. This means that even in a new, TTIP-based framework, regulatory decisions on financial services regulation would, as now, remain entirely within the purview of financial regulators.
- **It must ensure transparency and stakeholders' involvement**, which is a core principle to a good rulemaking process both in the United States and the European Union. It is important that TTIP direct any financial regulatory dialogue, as it should other dialogues between other sector regulators, to adhere to a series of commitments to ensure that all interested stakeholders are able to provide input into a transparent dialogue through a well-defined procedure that mandates equal treatment of all stakeholders and avoids delays to the regulatory process.

¹ For insurance, this includes the need to involve state regulators in the United States.

- **It must extend commitments on cross-border data flows and avoidance of server and data localization requirements impacting financial services.** Like every other industry, financial services rely on cross-border data flows for storage and processing. The need for financial services regulators to access data for prudential reasons should be assured by TTIP, but where that data is geographically stored should not be a concern.

In closing, TTIP represents a real opportunity for transatlantic economic growth. Its potential will be judged on its ambition. It is difficult to see how any concluded TTIP that fails to treat financial services in a comprehensive manner will achieve its own goals and enjoy substantial support. We stand ready to work with you to help ensure TTIP meets these goals.

Sincerely,

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U.S. Chamber of Commerce