EU-US COALITION ON FINANCIAL REGULATION

Press release

Transatlantic Trade Associations Call for Urgent Re-Engagement on the Pre-Crisis Dialogue on Regulatory Recognition and Accreditation

Tuesday 19 June 2012 – Regulators on both sides of the Atlantic must come together with real intent to establish a framework of inter-jurisdictional regulatory recognition and accreditation in order to address concerns over extraterritoriality and protectionism, a new report "Inter-jurisdictional Regulatory Recognition: Facilitating Recovery and Streamlining Regulation" states.

Commissioned by the EU-US Coalition on Financial Regulation, the Report cites the G20 call in 2010 for vigilance "to ensure open capital markets and avoid financial protectionism". The member Associations of the Coalition have become increasingly concerned by growing elements of regulatory extraterritoriality and protectionism in both the EU and US programmes for regulatory overhaul, which are increasingly inconsistent with this G20 call for vigilance.

Reflecting widespread industry concern, the Coalition commissioned the international law firm, Clifford Chance LLP, to produce a report on the urgent need to resume the pre-crisis dialogue for establishing a framework of transatlantic inter-jurisdictional regulatory accreditation and recognition.

The Coalition recognises that there will be differences in the overarching legal systems, market practices and regulatory priorities of the EU and the US, but are strongly of the view that there is a common foundation between their regulatory policies, objectives, standards and outcomes. These are sufficient to secure a level of regulatory inter-reliance that will help to sustain the international competitiveness of transatlantic businesses.

Importantly, such an approach will also reduce legal risk, compliance complexity, regulatory uncertainty and transactional costs that will flow from what is an increasingly fragmented regulatory approach.

The report argues that IOSCO's 38 Objectives & Principles of Securities Regulation, which were originally produced in 1998 and updated in 2010, provide an internationally-accepted foundation of regulatory adequacy. The Coalition Associations recognise, however, that regulatory interdependence will require a greater degree of in-depth analysis and due diligence, if it is to be credible and effective. While it may be necessary to go beyond the IOSCO Principles in this way, particularly in the area of supervision and enforcement, the Coalition Associations believe that they are a credible starting-point for building international regulatory accreditation.

Cecelia Calaby, Executive Director at American Bankers Association (ABASA) said: “Mutual regulatory recognition is critical for national supervisors seeking to implement post-crisis regulatory repair within the context of national laws and market structures, while also allowing for regulatory compatibility to address the global nature of financial service businesses. This report highlights the role of mutual regulatory recognition and sets out certain features of an effective approach.”

Simon Lewis, chief executive at the Association for Financial Markets in Europe said:

“This report highlights the central role that ‘mutual recognition’ can play in financial reform, where standards can be measured against equality of outcomes and effects, rather than by agreeing identical legal text. It is also important that domestic and international regulators assess the impact of proposed regulation by analysing the *overall* impact that measures will have on markets globally.

In addition, the G20 should address the need for common regulatory standards to be developed and the Financial Stability Board is ideally placed to provide guidance on where it is most critical to have consistent implementation of new rules.”

Walt Lukken, president and CEO of Futures Industry Association (FIA), said: “The EU and the US account for the majority of global trading in derivatives, so it is especially important for these two jurisdictions to achieve regulatory harmonization. I encourage regulators on both sides of the Atlantic to consider the recommendations contained in this report for reducing conflicts, enhancing coordination and minimizing the burden on market participants.”

Anthony Belchambers, CEO, Futures and Options Association (FOA), said: “Energising business recovery and economic growth is critical to post-crisis recovery. The Transatlantic marketplace – through which 80% of the world’s financial business flows – could have a major part to play in that process, but not if its regulatory framework is marked by fragmentation and conflict. Regulatory coherence is essential if the international competitiveness of the Transatlantic marketplace and its contribution to global recovery is to be sustained. That requires an urgent resumption of the pre-crisis dialogue on regulatory recognition.”

John Serocold, Senior Director, ICMA, said “Global capital markets that serve investors and issuers deserve a robust regulatory framework. This report shows how far we have come and maps out sensible next steps”.

Michelle Alexander, Director of Policy with IIAC, said: “The Investment Industry Association of Canada (IIAC) fully supports the analysis and conclusions set out in the EU-US Coalition Report in terms of facilitating and improving regulatory convergence, coherent implementation and mutual cooperation globally.

It is apparent that not only the regulators, but the investment industry as a whole should re-engage in the pre-crisis discussions to establish effective and credible framework of inter-jurisdictional transatlantic regulatory accreditation and recognition. This is critical not only for facilitating global recovery, but to improving the efficiency and effectiveness of the regulation of cross-border business.”

Robert Pickel, CEO, International Swaps and Derivatives Association (ISDA), said: “ISDA fully supports industry and regulatory efforts to build a more robust and stable financial system. However, we do have serious concerns about the inconsistency of rules between key regulatory jurisdictions. The OTC derivatives market is an inherently global market that successfully operates across jurisdictions.

Greater focus needs to be placed on ensuring a globally coordinated regulatory approach that ensures a level playing field and avoids the potential for fragmentation and regulatory arbitrage."

Tim Ryan, president and CEO, Securities Industry and Financial Markets Association, said: "In today's global economy, it's vital that we resume the dialogue to streamline regulation across borders. This is essential if financial markets are to continue to supply and allocate capital efficiently and at low cost. Further, it's critical that regulators take the time to assess the cumulative impact of new rules being implemented across jurisdictions to avoid market disruption and unintended penalties to economic growth."

Claude-Alain Margelisch, CEO, Swiss Bankers Association, said: "The Swiss Bankers Association has been a solid supporter of mutual recognition in the past, and also welcomes the current initiative of the Coalition to remind policy-makers and regulators of the potential benefits of inter-jurisdictional regulatory recognition. We note that this has to be done in the right way. Determining equivalence of third country regulation and supervision must not inadvertently amount to discrimination and protectionism. Rather, services from third country firms should be allowed to enhance the choice of investors and clients, and strengthen and deepen funding and capital markets in the EU, the US and anywhere else."

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