

AFME (Association for Financial Markets in Europe) –
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*“Supporting growth: the better integration of EU-US financial markets
under TTIP”*

Opening remarks by Edward Bowles for TTIP Stakeholders Event – 12 March 2014

Introduction

Thank you for the opportunity to share some observations with you concerning financial services and the TTIP.

Although I have the privilege to be a member of the European Commission’s Advisory Group on TTIP, I should state that what I will offer by way of observations should not be taken to represent the Group’s view. The Group is made up of many and different interests, and we make no claim to speak on behalf of each other – that is not the purpose of the Group – it is to represent the views of our sector to the Commission, and to provide advice on the negotiations to the Chief Negotiator and his team.

However, I can confirm that what I will say today is in line with the views of the Association for Financial Markets in Europe (AFME) and its members; I sit on the European Public Policy Committee of AFME, representing Standard Chartered Bank, my employer.

Overview

Let me state from the outset that I believe that the TTIP negotiation is an important initiative; it will probably be the last opportunity that the EU and US will get to set an operating framework for trade before the emerging economies (Asia, Africa, India and the Middle East) assume a greater permanent role and influence in the world economic order.

Financial Services are, like it or not, central to global trade. But, unlike the trade in goods, which is more often about market access, the issues for trade in services are about regulation. And - this Committee knows better than most – that regulation and financial services are inextricably linked.

Therefore, it is a matter of ongoing concern that the US side has adopted a position on TTIP which does not want to see financial services included in the regulatory chapter of discussions that are presently under way. The European Commission takes the opposite

view, as do I, and so do all the member firms of AFME. That includes the US member firms. I made this point clearly last week, when I had the opportunity of sharing some thoughts with the US and EU negotiators at the open meeting here in Brussels, during the 4th round of negotiations.

What this is not about, however, is rewriting Dodd-Frank (DFA), or EMIR for that matter. That message needs to be understood by all, without ambiguity.

The problem with the current system

The inclusion of financial services within TTIP is to deal with the fact that a disparate and uncoordinated approach to regulation creates divergences. That is the story we have seen unfold so far. There are many examples of those divergences, which the excellent recent report prepared by the Atlantic Council (and I am glad to see Chris Brummer here today), called 'Dangers of Divergence', details. Some of you, I know, were involved in the preparation of that report.

Let me just give two examples; the first relates to the treatment of FX swaps and forwards – which are exempted under DFA, but not by EMIR. A second example relates to the definition and treatment of non-US persons for transaction level reporting requirements placed on non-US Swap-Dealers (also known as Footnote 513).

These sorts of divergence create unnecessary and preventable opportunities for arbitrage and opacity, which present risks to the financial system, as well as barriers to trade. Central to these problems is how regulators deal with the globally integrated financial system by poorly articulated and badly co-ordinated extra-territorial measures. All of this also creates addition costs for the end-users of the system.

The current trans-Atlantic method for discussion of regulation, the Financial Markets Regulatory Dialogue (FMRD) is, manifestly, past its sell-by date. It was designed in the pre-crisis era and is not fit for purpose – neither side has any mandate, nor any obligation; it is too subject to the caprices of individual office holders; it has, as the Atlantic Council report amply demonstrates, simply failed to deliver convergent compatible regulation between the two jurisdictions.

The most recent FMRD coincided with the publication by Commissioner Barnier of his Liikanen proposals, and was shortly followed by the Fed's FBO rule – both of which have significant extra-territorial impacts, and neither of which has adequately been discussed between the regulatory authorities in advance of publication.

Solutions

The TTIP presents the right vehicle at the right time to tackle – in a forward looking manner – the ongoing need to deliver regulatory convergence between the EU and the US. And it is inconceivable that a TTIP ‘Single Market’ should not include Financial Services as part of that.

The two streams that the TTIP should seek to create are a) regulatory co-operation and b) regulatory coherence. Neither, however, would impinge on the ability of independent supervisory agencies to exert their prudential role and make such determinations as were required; nor would the outcome prevent the regulatory agencies from taking a divergent view on rule-making at the end of the day. What the mechanism would and should do, however, is establish a clear and binding set of horizontal principles, tools and methodologies for both sides to work to (in co-operation) and horizontal statements of regulatory practice, including extra-territoriality, risk-based approaches, stakeholder input, least trade-restrictive measures, by which to judge regulatory coherence. The end result should be much greater convergence and better trust between the EU and US regulatory/supervisory community, but – where there is divergence – an obligation to explain.

Thank you.