

## Securities Industry Priorities for the Transatlantic Economic Council

The Securities Industry and Financial Markets Association's US and European-based members are fully supportive of the TEC goal to strengthen transatlantic economic integration through *inter alia* regulatory modernization that would eliminate transatlantic barriers to investment and financial markets. We very much appreciate the visionary role that both the Bush Administration and the European Union (under the leadership of Chancellor Merkel and EU Commission President Barroso) have played in building a dialogue which provides a solid platform from which progress can be made now, and on a continuing basis.

We believe the fostering of economic integration by streamlining the disparate regulatory frameworks within which the transatlantic capital markets and investment regimes operate will: 1) facilitate financial services operations; 2) expand investor choice; 3) strengthen investor protection; 4) improve regulatory cooperation; and 5) enhance liquidity and investment. It is critical that US and EU regulators discuss proposed regulations on a prospective basis to help minimize regulatory differences in the future. In light of the technical nature of discussions related to streamlining transatlantic regulations, we are of the view that such issues are best discussed within the Financial Markets Regulatory Dialogue (FMRD).

The US and EU financial services sector has greatly benefited from the informal transatlantic FMRD. The FMRD has developed over time to allow US and EU regulators to discuss proposed regulations on a prospective basis to help minimize regulatory differences and to foster a growing transatlantic business environment. We believe that together with the continued progression of the FMRD (and the developing dialogue between EU and US legislators), in its current form, the TEC can provide an effective forum for the further integration of the transatlantic capital market.

### Primary Benefits of Streamlining Regulation in the Transatlantic Capital Market

#### Facilitate Financial Services Operations

US and EU financial services firms will benefit from a more coherently regulated and commercially efficient transatlantic marketplace. At present the US and EU regulatory frameworks are largely geographically based and need to change to take into account the global nature of providing financial services and products to meet customer demands.

#### Expand Investor Choice

Give investors a wider array of competing products and services from which to select.

#### Expand Investor Protection

Investor protection will be strengthened through the development of common standards, irrespective of where the service originates, improving customer understanding, mitigating customer confusion and reducing risk.

#### Improve Regulatory Cooperation

US and EU Regulators will acquire common understandings, develop greater trust and deeper working relationships, enhancing their ability to cooperate in supervisory and enforcement functions, and reducing regulatory differences.

#### Enhance Liquidity and Investment

Market infrastructure providers, particularly exchange and other platform operators, will be able to offer more efficient investment and capital-raising services and generate deeper pools of liquidity through enhanced and more cost-efficient cross-border dealings.

We provide below our priority issues for both US-EU FMRD bilateral discussions, as well as areas where the US and EU can cooperate in discussions with other markets. We are of the view that such issues are best discussed within the Financial Markets Regulatory Dialogue.

## **I) Priority Issues For US-EU Bilateral Discussions**

SIFMA members have identified a number of issues where we believe the FMRD can further progress in developing a transatlantic capital market, to the benefit of investors and consumers of financial products and services.

### *1) Complete Accounting Convergence*

We fully support TEC's goal to promote and seek to ensure conditions for US GAAP and IFRS to be recognized in both jurisdictions without the need for reconciliation by 2009 as agreed within the existing FMRD framework. We consider this mutual recognition of US GAAP and IFRS as being a critical step towards not only convergence around a single global accounting standard but also towards more regulatory convergence in other areas.

### *2) Facilitate Cross-Border Capital Markets Transactions for Sophisticated Investors*

The US and EU should provide exemptions from local licensing requirements to US and EU firms which only transact business on a cross-border basis with sophisticated investors. We urge efforts to modernize SEC rule 15a-6 as a practical first step. This would not require resolution in its early phases of the full panoply of issues raised by "mutual recognition". Such a process of recognition, as applied to date, would require completion of time-consuming inquiry into the overall "comparability" of the EU regulatory system to the US regulatory regime. Adoption of a phased and tiered approach would permit a recognition framework to evolve on a pragmatic basis – affording varying recognition and access based on the factors most significant to regulators and market participants.

### *3) Modernize the Regulation of the Transatlantic Capital Marketplace*

In addition to exemptive relief noted above, and in line with recommendations by the EU-US Coalition on Financial Regulation and the IIF, we believe further progress can be made in modernizing the transatlantic regulatory structure through: a) wider acceptance of *regulatory recognition* (whether unilateral, bilateral or multilateral) as accepted international regulatory policy based on a common set of regulatory values and shared outputs; b) identifying and promoting "*targeted*" *rules' standardization* where only standardization can deliver tangible benefits for the providers and consumers of financial services (eg, classification of counterparties, disclosure of large shareholdings; reporting standards); and c) establishment of a framework and process for (i) taking forward the regulatory dialogue on a regulator-to-regulator basis, and (ii) accommodating regular and consistent industry input into that framework and process.

### *4) Develop Transatlantic "Register" For Regulations*

Financial services firms in the transatlantic marketplace would benefit from the development of a common platform for the publication of new and updated regulations. For example, a website could be established on which US and EU regulators could post proposed regulations, in addition to publishing them in their home markets. Details for commenting on proposed regulations, including deadlines and contact persons, would be included with each posting. Such a website might help minimize regulatory differences among regulators.

### *5) Encourage Greater Congressional/Parliamentary Dialogue*

SIFMA supports increased dialogue between key financial service legislators in the US Congress and EU Parliament to enhance and support the ongoing FMRD and to ensure the exchange of information critical to developing the transatlantic capital markets. This would facilitate mutual consultation on legislation, especially where there are potential extraterritorial effects, and identify common future legislative goals and common or compatible solutions wherever possible.

## **II) Priority Issues For US-EU 3<sup>rd</sup> Country Discussions**

We indicate below a number of areas where the US and EU could work cooperatively and deliver consistent messages to promote open, fair, and more efficient global capital markets.

### *1) Enhance Regulatory Transparency*

Transparent and fair regulatory systems clearly play an integral role in the development of deep and liquid capital markets which attract market participants, increase efficiency and spur economic growth and job creation. The lack of transparency in the implementation of laws and regulations acts as a trade barrier, and impedes the ability of securities firms to compete fairly. Enhancing regulatory transparency will benefit issuers, investors, and intermediaries.

### *2) Promote Open Markets and Investment*

A number of countries outside the US and EU still have in place barriers that prevent non-domestic firms from enjoying the same ownership rights and treatment offered to domestic firms. The US and EU should develop a common agenda to eliminate and reduce these barriers. This could be accomplished, for example, within the WTO, or future free trade agreements, or within the ongoing US and EU financial services dialogues with third countries. Moreover, the US and EU should promote and support the free flow of capital investment, encourage open markets by home and host countries, and advocate "least restrictive" regulation that reasonably addresses regulatory concerns.

### *3) Encourage Facilitation of Cross-Border Capital Markets Transactions*

We support the G7 goal to "further liberalize cross-border capital markets, [by] explor[ing] within the G7 free trade in securities based on mutual recognition of regulatory regimes." We urge the US and EU to explore cross-border reform bilaterally, and to work within the G7 and other multilateral and regional forums to promote the facilitation of cross-border transactions with institutional investors. In line with the US-EU proposals discussed above, countries should be encouraged to a) provide exemptions from local licensing requirements to foreign firms which only transact business on a cross-border basis with sophisticated customers and b) accept and implement common standards of regulation (such as IOSCO's Objectives and Principles of Securities Regulation) which will facilitate regulatory recognition and convergence.

### *4) Expand Best Practices in Investment Protection*

Where legal systems are less developed and investments are often times at a very high risk, the US and EU should work to establish core investment protections, bolstered by investor-state dispute settlement remedies, that help ensure the security and long-term viability of investments that are critical for US and EU companies.