



U.S. DEPARTMENT OF STATE
DIPLOMACY IN ACTION

Transatlantic Economic Council: Annex 2 - Joint Report on U.S.-EU Financial Markets Regulatory Dialogue for the TEC Meeting

BUREAU OF EUROPEAN AND EURASIAN AFFAIRS

October 27, 2009

FMRD Issues and Accomplishments

The FMRD is a key mechanism for the U.S. and EU to discuss implementation of broad strategy and focus on specific regulatory issues. By bringing together policy and regulatory officials, technical expertise can be brought to bear on broad policy decisions and translated into concrete action. In the past year, the FMRD has met twice (December 2008 and June 2009). FMRD participants have had numerous additional informal meetings, calls and exchanges on financial regulatory issues. The key issues discussed include:

Supervision / Capital / Stress Tests: Both the U.S. and EU have made significant proposals for restructuring their financial supervisory architecture. We have had valuable exchanges of views on our respective proposals, focusing particularly on the need to address systemic risk.

Both sides have agreed on the importance of coordinating reforms to rules on capital, liquidity management, leverage and risk management with the work of the Basel Committee on Bank Supervision. In the context of widespread uncertainty as to the health of banks, in the June FMRD the U.S. shared its experience with bank stress testing as the EU prepared for its EU-wide stress testing exercise. There were significant further interactions between the technical experts on both sides working on stress testing.

Credit Rating Agencies: The crisis has demonstrated the need to reform the regulation and supervision of credit rating agencies (CRAs). Both sides clearly emphasized that a key issue is access of third country CRAs that would not compromise the essential elements of the respective regulatory frameworks, and we share the view that equivalence/endorsement determinations for CRAs should follow an outcomes-based assessment (indicating that we both follow high quality standards), rather than an exact duplication of rules. There has been extensive contact between both sides on equivalence. European Commission officials traveled to Washington to meet with the SEC and Treasury in July. Treasury officials met with DG MARKT and McCreevy Cabinet officials as well as CESR in September. CESR will advise the European Commission which will decide on its equivalence determination for the U.S. To that end CESR has begun the process of working with the SEC.

Derivatives: Both the U.S. and the EU agree that it is critical to make progress on derivatives, anchored in efforts to restore transatlantic financial stability and promote a global infrastructure for payments and settlements. Reporting all OTC derivative contracts to trade repositories, clearing all standardized contracts through central counterparties and shifting trading of standardized contracts onto exchanges/electronic platforms where appropriate, will significantly reduce risk and improve transparency within the financial system. Treasury's proposed legislation is currently under consideration in Congress.

On October 20th, the European Commission released more detailed policy proposals regarding OTC derivatives, which will be presented at the next FMRD meeting. We continue to work extensively together to share

experiences and coordinate approaches as evidenced by the NY Fed-chaired OTC Derivatives Regulators Forum and the September visit of CFTC Chairman Gensler to Brussels for the European Commission High level conference on Derivatives Markets.

Hedge Funds / Alternative Investment Fund Managers: Supervision of hedge funds and alternative investment fund managers should be enhanced. Treasury has forwarded proposed legislation to Congress, which calls for registration, reporting and disclosure requirements for managers of hedge funds and other private pools of capital, along with prudential requirements for systemically significant funds. The European Commission has issued a proposed directive which would require authorization and apply prudential and other requirements to alternative investment fund managers. We have had extensive exchanges on our respective proposals, both in the FMRD and bilateral meetings in Washington and Brussels, and both sides agree that it will be important to make progress in the period ahead in order to allow hedge funds to pursue global strategies on the basis of sound management practices, in particular with regard to risk management, and high quality standards.

Accounting: It is important to achieve a single set of high quality, global accounting standards. The Securities Exchange Commission (SEC) is currently evaluating responses to public comments on its proposed roadmap for potential use of International Financial Reporting Standards (IFRS) by U.S. issuers. In addition, the SEC has been actively involved in the new IASCF Monitoring Board. The Financial Accounting Standards Board (FASB) continues to work with the International Accounting Standards Board (IASB) on a number of issues, including valuation and measurement of financial instruments (IASB's review of IAS39).

Auditing: Work is continuing to find a satisfactory solution to the issue of sharing confidential audit papers among official auditor oversight bodies. Discussions are currently taking place to address short term concerns. The U.S. reaffirmed that it is seeking necessary legislative changes to ensure a long term solution to the issue. An amendment to Sarbanes-Oxley that would allow the PCAOB to share information with foreign supervisors has been submitted, both as a standalone bill and as part of the Investor Protection Act of 2009, as part of the U.S. regulatory reform program. This amendment would allow the European Commission to include the PCAOB in a decision allowing EC Member States to exchange audit working papers with other official auditor oversight bodies.

Insurance: Both sides discussed developments in insurance, including the approval of Solvency II in the EU and its provisions on the treatment of third country insurers and reinsurers, proposals in the United States to create a national insurance office within the Treasury Department and to reform reinsurance collateral rules applicable to third country reinsurers not licensed in the U.S.

Protectionism: Both sides reiterated their strong commitment to fight protectionism at both the multilateral and bilateral levels.

Global Policy Setting and Coordination

The U.S. and EU work together in a variety of multilateral fora to set broad strategy for and coordinate approaches on financial market regulation, such as the G-20, Financial Stability Board and standard setting bodies (such as IOSCO). These efforts are deepened via extensive bilateral visits and meetings.