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DRAFT REPORT

on relationships between the EU and third countries concerning financial services regulation and supervision
(2017/2253(INI))

Committee on Economic and Monetary Affairs

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

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The European Parliament,

- having regard to the report of 25 February 2009 by the High-Level Group on Financial Supervision in the EU, chaired by Jacques de Larosière,
 - having regard to its resolution of 11 March 2014 with recommendations to the Commission on the European System of Financial Supervision (ESFS) Review¹,
 - having regard to the Commission staff working document of 15 May 2014 entitled ‘Economic Review of the Financial Regulation Agenda’ (SWD(2014)0158),
 - having regard to the Commission report of 8 August 2014 on the operation of the European Supervisory Authorities (ESAs) and the European System of Financial Supervision (ESFS) (COM(2014)0509),
 - having regard to its resolution of 12 April 2016 on the EU role in the framework of international financial, monetary and regulatory institutions and bodies²,
 - having regard to the Commission communication of 23 November 2016 entitled ‘Call for Evidence – EU regulatory framework for financial services’ (COM(2016)0855),
 - having regard to its resolution of 19 January 2016 on stocktaking and challenges of the EU Financial Services Regulation: impact and the way forward towards a more efficient and effective EU framework for Financial Regulation and a Capital Markets Union³,
 - having regard to the Commission staff working document of 27 February 2017 entitled ‘EU equivalence decisions in financial services policy: an assessment’ (SWD(2017)0102),
 - having regard to Rule 52 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A8-0000/2018),
- A. whereas since the financial crisis, more than 40 new pieces of EU financial legislation have been adopted, of which 15 include ‘third country provisions’ that give the Commission the power to unilaterally decide whether regulatory rules in foreign jurisdictions can be considered equivalent;
- B. whereas equivalence, passporting rights and mutual recognition are distinctly different concepts, providing different rights to and obligations for financial institutions and

¹ Texts adopted, P7_TA(2014)0202.

² Texts adopted, P8_TA(2016)0108.

³ Texts adopted, P8_TA(2016)0006.

market participants;

- C. whereas there is no single framework underpinning equivalence decisions; whereas each legislative act sets out a unique equivalence process tailored to its policy objectives;
- D. whereas equivalence is a tool to promote international regulatory convergence, which may lead to more competition in the EU on a level playing field, while preventing regulatory arbitrage;
- E. whereas equivalence decisions cannot be considered merely technical in nature and should therefore be subject to a greater degree of scrutiny by Parliament;
- F. whereas the forthcoming withdrawal of the UK from the EU will potentially have a significant impact on the regulation and supervision of financial services, given the close relationship that currently exists between the Member States in this area;
- G. whereas in its resolution of 19 January 2016 on stocktaking and challenges of the EU Financial Services Regulation, Parliament called on the Commission to ‘propose a consistent, coherent, transparent and practical framework for procedures and decisions on third-country equivalence, taking into account an outcome-based analysis and international standards or agreements’;

Relationships with third countries since the crisis

- 1. Notes that since the financial crisis, the EU has developed its financial regulation through wide-ranging reforms; welcomes the increased regulatory and supervisory cooperation between the EU and third countries; recognises that this has improved global consistency in financial regulation and has made the EU more resilient to global financial shocks;
- 2. Considers that the EU should promote global financial regulatory reforms aimed at reducing systemic risk and should work towards an open, integrated and resilient financial system that supports sustainable economic growth, job creation and investment;
- 3. Notes that the Member States may not always entirely support international cooperation owing to concerns about the protection of national interests and the inherent incentive to shift risks to other jurisdictions;

EU equivalence procedures

- 4. Notes that several EU legislative acts contain specific provisions for regulatory cooperation with third countries, including the possibility to conclude international agreements and to grant ‘equivalence’;
- 5. Stresses that, in many cases, the granting of equivalence is a unilateral decision taken by the EU and is not applied in a reciprocal manner by third countries; considers that international cooperation could be better advanced by dint of international agreements negotiated between the EU and third countries; notes that, unlike equivalence,

international agreements can provide mutual access between the EU and third countries for financial institutions and for the mutual recognition of rules;

6. Recognises that the EU's equivalence regime is an integral part of its regulatory framework for financial services and can offer several benefits, such as: the removal of unnecessary regulatory barriers, increased competition, increased capital flows into the EU, and more instruments and investment choices for EU firms and investors;
7. Reiterates that equivalence decisions do not grant financial institutions comparable rights to passport financial services throughout the EU, but recognises that they may give third-country institutions limited access to the single market for certain products;
8. Emphasises that one of the key objectives for equivalence is to promote regulatory convergence on the basis of international standards;
9. Considers that, as it stands, the EU's process for granting equivalence lacks certainty and sufficient transparency, and requires a structured and practical framework outlining clear procedures;
10. Believes that equivalence decisions and international agreements should be objective, proportionate, risk-sensitive and be taken in the best interests of the Union and its citizens;
11. Questions the rationale behind equivalence decisions typically taking the form of implementing acts; insists that the process for granting equivalence to a third country in the area of financial services should always be scrutinised by Parliament and that, owing to their political nature, and for the purposes of greater transparency, these decisions should be taken by means of delegated acts;
12. Notes that the Commission's decision of 21 December 2017 to grant equivalence to Swiss share trading venues – limited to a 12-month period with the possibility of an extension provided sufficient progress is made on a common institutional framework – was primarily political, and used to gain leverage in a separate policy matter; deplores the fact that Parliament had no input into this decision;
13. Notes that the Commission has the right to withdraw equivalence decisions, and believes that Parliament should be consulted in a timely manner before such a withdrawal decision is taken; calls for the introduction of clear procedures and timelines governing the adoption, withdrawal or suspension of equivalence decisions;
14. Is concerned that there is no consistent framework for ongoing supervision of an equivalent third country's regime; considers that the European Supervisory Authorities (ESAs) should be equipped with the power to monitor regulatory developments in third countries and demands that Parliament should be kept informed of ongoing regulatory monitoring in third countries;
15. Calls on the Commission to adopt a legislative act establishing a clear framework for a transparent, coherent and consistent application of equivalence procedures which introduces a standardised process for the determination of equivalence;

16. Calls for equivalence decisions to be reviewed at least once every three years by the relevant ESA and for such reviews to be made public;
17. Calls on the Commission to consider the possibility of introducing an application process for granting equivalence which could be opened to third countries on a date specified in a given piece of legislation;
18. Calls on the Commission to conduct an in-depth review of all equivalence decisions taken, in order to determine the successes and failures of the current equivalence regime;
19. Stresses that close consideration should be given to the equivalence regime between the EU and high-impact third countries in order to develop stable and resilient regulatory relationships with those countries which have close financial links with the Union;
20. Recalls the importance of National Competent Authorities (NCAs) in the authorisation process for financial institutions that wish to delegate part of their portfolio management or risk management to service providers in third countries where the regulatory regime is comparable to that of the EU; considers that NCAs have sufficient technical knowledge and expertise to properly assess delegation approval requests; encourages the ESAs to develop further cooperation between NCAs in order to share best practice concerning regulatory cooperation and activities with third countries;

The EU's role in global standard-setting for financial regulation

21. Underlines the importance of the EU's role in global standard-setting as a means of working towards international consistency in financial regulation, maximising financial stability, preventing regulatory loopholes between jurisdictions and developing an efficient international financial system;
22. Calls for active involvement from the Commission, the Member States and ESAs in global standard-setting bodies in financial services; stresses the need for the consistent implementation of international standards in order to achieve better regulatory cooperation with other jurisdictions and to improve global financial stability;
23. Calls to that end, moreover, for the EU-US Financial Markets Regulatory Dialogue to be upgraded to include more regular meetings; stresses that the EU should push to have a financial services chapter as part of any potential future EU-US trade agreement;

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24. Instructs its President to forward this resolution to the Council and the Commission.