

United States (U.S.) — European Union (EU) Joint Financial Regulatory Forum Joint Statement

March 23, 2018

WASHINGTON — U.S. and EU participants in the U.S.-EU Joint Financial Regulatory Forum (Forum) met on January 22, 2018 in Washington, D.C. to exchange views on financial regulatory developments as part of their ongoing regulatory dialogue.

EU participants included representatives of the European Commission, European Banking Authority (EBA), European Securities and Markets Authority (ESMA), European Insurance and Occupational Pensions Authority (EIOPA), Single Supervisory Mechanism (SSM), and Single Resolution Board (SRB).

U.S. participants included staff from the U.S. Department of the Treasury (Treasury) and independent regulatory agencies, including the Board of Governors of the Federal Reserve System (FRB), Commodity Futures Trading Commission (CFTC), Federal Deposit Insurance Corporation (FDIC), Securities and Exchange Commission (SEC), and Office of the Comptroller of the Currency (OCC). Participants expressed views on issues in their respective areas of responsibility. At the meeting, U.S. and EU participants discussed the outlook for financial regulatory reforms and future priorities. Participants acknowledged the importance of the Forum and the need for ongoing dialogue amongst the regulators in recognition of the nature of the global financial markets. Participants also welcomed the deepened cooperation since the launch of the Forum's enhanced dialogue.

Participants welcomed the signing of the bilateral agreement between the U.S. and EU on prudential measures regarding insurance and reinsurance (Covered Agreement) in September 2017, and looked forward to cooperating on its implementation and the first meeting of the Joint Committee established by the Agreement.

Capital Markets and Derivatives Reform

Participants noted the significant cooperation among the European Commission, SEC, and CFTC on issues related to the cross-border impacts of MiFID II. Participants welcomed the European Commission's decisions to grant equivalence to CFTC-authorized swap execution facilities and

designated contract markets and SEC-regulated share trading venues under the Markets in Financial Instruments framework and the CFTC's exemption of EU trading venues from registration as swap execution facilities. They lauded the mutual cooperation to identify and address potential cross-border market impacts of domestic financial regulation. ESMA discussed post-trade reporting requirements with a view toward avoiding double reporting for EU persons that trade in U.S. markets. The EC noted recent moves of energy derivatives contracts from the EU to certain U.S. trading venues and announced its intention to look into the causes of such moves. CFTC participants also provided an update on the status of the CFTC exemption of EU venues, and reviewed the process for updating the list of exempted EU venues. Participants discussed issues related to clearing arrangements for EU venues that wish to benefit from the CFTC's exemption order.

In the area of MiFID II's research provisions, U.S. participants welcomed the additional guidance published by the European Commission clarifying how EU firms subject to MiFID II can obtain research services from other jurisdictions. Participants noted the SEC staff no-action relief and CFTC staff interpretive guidance that provided a path for market participants to comply with the research requirements of MiFID II in a manner consistent with U.S. laws. EU and U.S. participants agreed to continue to engage on issues related to the MiFID II, as impacts from MiFID II across markets become apparent over time. SEC and EU participants took stock of ongoing discussions regarding the SEC security-based swap dealer registration rules and their application to EU firms.

The EU participants provided an update on the status of equivalence for SEC-regulated CCPs under EMIR. The CFTC and EU participants acknowledged their respective announcements regarding the comparability and equivalence of uncleared margin requirements. EU participants also provided a status update on the CCP supervision proposal, and CCP recovery and resolution legislation. Participants took stock of both the EU equivalence for U.S. CCPs under the European Market Infrastructure Regulation (EMIR) and the CFTC substituted compliance decision for EU CCPs. U.S. participants provided an update on developments regarding stress testing, and recovery and resolution plans for U.S. CCPs.

EU participants provided an update on the passport for third country fund managers under the Alternative Investment Fund Managers Directive as well as an overview of the implementation of the Capital Markets Union mid-term review.

EU participants also provided an update on the review of European Supervisory Authorities, including proposed changes to supervision, based on existing material requirements, of

investment management delegation, third-country prospectuses and third country benchmarks.

Banking Initiatives

Participants noted the continued progress made to date on cross-border bank resolution and reaffirmed the deep cooperation between the European Commission, EBA, SRB, SSM, FDIC, Federal Reserve, and Treasury on technical aspects of resolution.

U.S. and EU participants took stock of recent legislative and regulatory developments on both sides of the Atlantic. Banking participants welcomed the completion of the Basel III standard and agreed that timely and consistent implementation of the package is desirable in order to maintain a level playing field for internationally active banks.

EU participants presented an update on the negotiations between the European Parliament and Council on the November 2016 EU banking package, and noted that the package will enhance the regulatory framework, while ensuring that banks continue to support economic growth in the European Union. More specifically, this update focused on proposals to include more risk-sensitive capital requirements in the area of market risk, a leverage ratio, a Net Stable Funding Ratio, and a minimum Total Loss-Absorbing Capacity requirement for global systemically important banks.

EU participants explained developments in the proposed requirement to set up an EU intermediary parent undertaking (IPU). Treasury presented the recommendations set out in the US Treasury report of 12 June 2017 for recalibrating requirements imposed on Intermediate Holding Companies (IHC) of Foreign Banking Entities (FBO) operating in the United States. The U.S. and EU participants discussed considerations and differences regarding intermediate parent undertakings and intermediate holding companies for cross-border resolution, in particular those relating to a separate corporate structure for depository and non-depository institutions.

The SRB provided an update on its progress in resolution planning as well as progress on cross-border resolution cooperative arrangements between the US and European authorities, including on recent joint exercises and also on the signing of a bilateral co-operation arrangement with the FDIC in September 2017.

The SSM provided an update on the third annual implementation of a harmonized Supervisory Review and Evaluation Process in the Eurozone, and on its efforts to reduce non-performing loans and to reduce unwarranted risk weight variability.

The FRB provided a compliance update related to its final rule on Total Loss-Absorbing Capacity applicable to global systemically important banks. The FRB also provided an update on the rulemaking of the U.S. banking participants on early termination provisions of qualified financial contracts. The EU participants explained proposed revisions to EU rules covering contract stays in resolution and the participants discussed the implications for netting in the U.S. U.S. and EU participants discussed Basel Committee work, including updates on the implementation of the Fundamental Review of the Trading Book (FRTB), the Net Stable Funding Ratio (NSFR), and the leverage ratio. The FRB also provided an update on guidance with respect to certain foreign funds under the Volcker rule.

Data Protection

In light of the entry into application of the General Data Protection Regulation in May 2018 and given the importance of international data transfers and access for regulatory, supervisory and enforcement purposes, EU and U.S. participants continued their discussion on transfers of, and access to, data including different mechanisms provided for under the new EU data protection framework.

Tax

The participants discussed the recent U.S. tax reform. The EU participants raised concerns about the potential implications of the reform onto the international TLAC standards for foreign-owned banks, and onto foreign reinsurers.

Next steps

Participants will continue to engage on these topics, including standards relevant to banks and funds, including bank resolution issues, cooperation on cross border issues relevant to capital markets, CCP supervision and resolution, outsourcing and delegation arrangements, data protection, the implication of tax rules on the operations of foreign banks and insurers, as well as on other topics of mutual interest ahead of the next Forum meeting. The next Forum meeting will take place in Brussels in summer 2018.