sifma

Invested in America

Securities Industry and Financial Markets Association Comments on the Participation of Mexico, Canada and Japan in the Trans-Pacific Partnership

The Securities Industry and Financial Markets Association (SIFMA)[1] appreciates the opportunity to comment in support of Canada, Mexico, and Japan's participation in the Trans-Pacific Partnership (TTP) agreement. We believe that a high-standard, comprehensive, and broad-based regional agreement would represent a key building block in opening foreign markets to U.S. business, consumers, and investors, resulting in new opportunities to create jobs, and bolster economic growth. Such an agreement among TPP markets can also serve as a launch pad for the addition of similar like-minded countries. Consequently, we strongly encourage the Administration to expeditiously conclude this ambitious, 21st century trade agreement.

As a result of past and ongoing efforts by the Office of the United States Trade Representative (USTR) and the U.S. Treasury Department with these countries, many financial services barriers have already been addressed through existing bilateral and multilateral trade agreements with the U.S. While some of these traditional market access barriers remain – and should be addressed in the TPP negotiations – we believe that in order to provide commercial value and qualify as a high standard, 21st century trade agreement, the TPP must address more discreet administrative and regulatory barriers that, if left in place, would severely limit the value of any of the financial services commitments.

TPP nations currently include key global economies and important financial centers that represent a combined population of 510 million citizens and a combined GDP of nearly $16.3 trillion. If Canada, Mexico and Japan are welcomed into the TPP, the agreement will cover nations with a combined population of 785 million citizens and a combined GDP of nearly $23.8 trillion.

Access to these additional markets within the TPP is important as the ability to help provide goods and services on a global basis is critical to the continued success of the U.S. financial services industry. The U.S. trade surplus in services increased from $101.2 billion in 2003 to $168 billion in 2010.[2] According to the U.S. Department of Commerce, financial and business services contribute to most of the U.S. services surplus, with exports of financial services

[1] The Securities Industry and Financial Markets Association (SIFMA) brings together the shared interests of hundreds of securities firms, banks and asset managers. Together, our industry employs almost 800,000 people nation-wide. These individuals are engaged in communities across the country to raise capital for businesses, promote job creation and lead economic growth.
[2] David Payne and Fenwick Yu, U.S. Trade in Private Services, Department of Commerce, May 2011.

totaling roughly $60 billion in 2010, with a surplus of nearly $45 billion.[3] This surplus supports millions of jobs in the U.S., both within the industry and supporting sectors. Additionally, open and fair global capital markets reduce the cost of capital for U.S. companies in all sectors of the economy, and enable continued growth and expansion.

As the TPP may expand to include other major Asia-Pacific economies, now is the time to set the highest standards for a comprehensive outcome. It prevents subsequent acceding economies from diluting by exclusion the disciplines of a high-standard TPP agreement. Given this expectation, we believe the inclusion of Canada, Mexico and Japan creates a stronger and more robust agreement.

Benefits of Inclusion

The inclusion of these three nations will reinforce existing regional trade agreements and enhance the already ongoing robust financial regulatory dialogue in place between each country's regulators. The U.S. has long had close regulatory and trade ties with these nations through the North American Free Trade Agreement (NAFTA). The U.S.-Canada Regulatory Cooperation Council (RCC) was recently initiated to provide a forum to resolve existing unnecessary divergences and encourage transparent efforts while the Economic Harmonization Initiative (EHI) was developed to contribute to U.S. and Japanese economic growth by promoting cooperation to harmonize approaches that facilitate trade, address business climate and individual issues, and advance coordination on regional issues of common interest. Finally, the U.S. initiated the High-Level Regulatory Cooperation Council with Mexico to identify areas of mutual interest for regulatory cooperation.

Financial institutions from these three countries also play an important role in the U.S. financial system. Both Canadian and Japanese securities firms are active members of the U.S. financial markets and participate fully in the U.S. securities markets through *inter alia* the full ownership of financial institutions and their status as Primary Dealers in U.S. government debt auctions. Additionally, Canadian, Mexican and Japanese financial regulatory agencies have all signed regulatory cooperation agreements and participate in high-level dialogue with U.S. financial regulatory agencies. We believe regulatory cooperation with these three countries is strong and their inclusion in TPP negotiations would reinforce our long standing financial regulatory and trade relationships.

We believe that the TPP provides a unique opportunity to continue developing mechanisms that encourage supervisors to provide a more coherent and consistent regulatory framework. In

[3] Ibid., Payne and Yu.

particular, negotiators should explore ways of incorporating the regulatory reform principles articulated by the G20 into the TPP. The inclusion of such principles would benefit regulators, investors, and other market participants by strengthening compliance by reducing regulatory complexity and opportunities for regulatory arbitrage. Greater coordination would positively affect the ability of firms to achieve intended levels of internal control and compliance. We recognize that this effort must be consistent with the mandate of regulatory bodies to protect investors and ensure the safety, soundness, and integrity of the financial system.

Core Elements of Securities Industry Priorities

Despite the increasingly close cooperation with these three nations, numerous barriers continue to restrict the ability of internationally active securities companies to deliver services in ways that maximize efficiency for their clients and contribute to stable growth.

We believe that the following criteria are essential components of a successful financial services chapter of the TPP:

- Allow foreign securities firms to establish a new commercial presence or acquire an existing commercial presence;
- Permit 100% ownership, as well as the right to establish in corporate form of choice;
- Provide national treatment (i.e., treat foreign financial sector participants and investors on the same basis as domestic investors for regulatory and other purposes);
- Allow foreign securities firms to provide services cross-border to sophisticated clients (i.e., “qualified investors”) without establishing a commercial presence and without being subject to separate licensing and approval requirements of the type that generally apply to firms commercially present in a market;
- Permit consumers to travel outside their territories to obtain any capital markets related service;
- Commit to procedural aspects of regulatory transparency (including commitments of prior comment) to allow both suppliers and consumers of capital markets related services to know what the rules are and have confidence that the rules will be applied consistently and fairly;
- Eliminate economic needs tests; and

- Permit dissemination and processing (within country and cross-border) of financial information to provide clients with services necessary for the conduct of ordinary business.

In addition, a strong investment chapter that applies equally to financial services investors, including with respect to core protections and investor-state dispute settlement, is vital given reaching foreign customers most often requires foreign investment.

In developing a 21st century agreement, the Administration should build on “best of breed” provisions from recent agreements, such as those in the U.S.-Korea Free Trade Agreement and the Rwanda BIT, rather than simply inventorying provisions from existing FTAs with TPP countries. A mere recounting of existing agreements would not reflect the global and rapidly changing nature of the financial services sector.

Conclusion

SIFMA believes the TPP offers both Congress and the Administration an opportunity to secure open and fair access to foreign markets for financial firms. To sustain the ongoing recovery, the financial services sector must continue to position itself globally to meet the demands of its U.S. and foreign clients.

Free trade agreements and access to growing markets remain key components of the global economic recovery. The financial services sector helps to facilitate and support these agreements. For the financial services industry to help multinational companies take advantage of these global opportunities, they must have the ability to provide, for example, currency-related products, deal with cross-border tax differences, offer country risk assessments, develop global cash-management facilities, and provide country-specific investment advice and solutions: all key services provided by global financial institutions to promote U.S. exports.

SIFMA looks forward to continuing to work with Congress and the Administration to conclude the TPP and welcomes the participation of Canada, Mexico and Japan in the TPP agreement.