Bilateral Regulatory Cooperation

Building Dialogues for Growth and Jobs

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sifma

Contents

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Executive Summary

Effective regulatory cooperation between rule-makers in different jurisdictions is vital to the prosperity of the global economy. Regulation is important to achieving society's goals with regards to transparency, fair and efficient markets and financial stability; however, finance that transcends national boundaries is equally crucial to driving growth of trade, investment, jobs and incomes. It is therefore imperative that regulators work with counterparts in other jurisdictions to ensure that regulations are compatible, and can co-exist, with healthy cross-border capital markets.

The coming year presents an excellent opportunity to seriously explore a new model of *bilateral* regulatory cooperation as the United States and other jurisdictions examine and redefine their trade and investment relationships.[1] Previously, the financial services industry has highlighted the advantages that could stem from including the specifications for regulatory cooperation *inside* the text of formal trade and investment agreements.[2] But while that would have clear merit in terms of the commitment and credibility it would impart to bilateral regulatory cooperation, policymakers have in the past expressed concern with going down such a route. It therefore makes sense to explore alternative ways to strengthen regulatory cooperation.

While there do exist several ad-hoc regulatory fora between two or more countries, these existing fora can be improved upon. That is not to say that these processes have not already absorbed certain improvements and sometimes yielded positive results and worthwhile durable outcomes. But when they do, getting there is often much more fraught and time consuming than it needs to be, resulting in unnecessary business uncertainty. The time has, therefore, come for economies to make new commitments to bilateral regulatory cooperation by establishing new mechanisms characterized by several key parameters essential for effective coordination and economic growth.

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[1] The focus of this paper is on bilateral cross-border regulatory cooperation. Its scope does not extend to supervisory cooperation which is also extremely important.

[2] See, for example, https://www.sifma.org/resources/submissions/sifma-writes-letter-to-united-states-trade-representative-on-ttip-and-financial-services/ or https://www.sifma.org/resources/submissions/joint-associations-statement-regarding-transatlantic-financial-regulatory-coherence-coalition-financial-regulation-in-the-ttip/

These include:

- Clear timetables;
- Published goals and objectives;
- Transparency;
- Meaningful consultation with industry and other stakeholders; and
- A process for follow-up.

Establishing mechanisms that meet these criteria would not require changes in law. Instead, SIFMA suggests other means, such as robust Memorandum of Understandings for example, could be used instead to deliver material improvements to regulatory cooperation with the option of using trade agreements in the future. But immediate, practicable improvements do require sincere commitment from policymakers and regulators allied with consultation and constructive input from the broader public.

Introduction

The financial services industry has grown increasingly global in recent decades, with the industry's share of worldwide services exports rising from less than 7 per cent in 1997 to over 11 per cent today. This growth has enhanced its contribution to investment, growth and jobs on a cross-border/international basis. At the same time, the industry has also seen an increase in the volume and complexity of the regulation that governs its activities. If regulations in different jurisdictions are not compatible, frictions will be introduced between markets, impairing the cross-border flow (and overall volume) of investment and fragmenting liquidity. Regulatory inconsistencies can therefore impede trade and investment in financial services (and other industries) in a similar way to more traditional trade barriers. These frictions in turn impair access to finance for the end-users of capital through all parts of the economy.

Regulatory cooperation and coordination between different jurisdictions, therefore, are vital to proactively tackling potential regulatory frictions that risk bifurcating capital markets and impeding cross border investment. Regulatory cooperation is therefore an important means to and an end, as a foundation for securing cross-border capital markets that promote growth and job creation. Regulatory cooperation does *not* mean countries have to have identical rules or that one jurisdiction's regulations are pre-determined by those of another. It *does* mean rule-setters from different jurisdictions must work together to help deliver comparable regulatory outcomes that provide necessary systemic and consumer protections as well as support the maintenance of job creating cross-border trade and investment.

Regulatory cooperation needs to take place at both the multilateral and bilateral level. The former is particularly important to establish the frameworks amongst a large group of countries around which to coalesce and thereby provide a key enabler to cross-border finance; the latter provides for more granular and detailed discussions between regulators on how to meet regulatory objectives and mutually interact to achieve a specific outcome within a given framework.[3] Both are necessary and, if correctly designed, can positively complement one another. This paper concerns itself with *bilateral* regulatory cooperation although its contents could also apply in trilateral or even broader arrangements should those develop (e.g., amongst the three economies involved in the prospective United States, Mexico and Canada Agreement [USMCA]).

[3] http://www.gfma.org/news/press-releases/2018/gfma-releases-principles-for-achieving-consistent-regulatory-regimes-and-supervisory-practices/

Unfortunately, the bilateral regulatory cooperation that presently exists between the world's largest economies on a bilateral basis is *ad hoc* and less effective than it could be. This has been evidenced in both how the existing processes are executed and by the potential unlevel playing fields and fragmentation. Cross-border investment, growth and job creation have been sacrificed as a result.

These frictions were noted in a 2017 U.S. Treasury's Report on the Capital Markets[4] – alongside a commendably positive perspective on tackling them. The report recommended that "*U.S. regulators seek to reach outcomes based, non-discriminatory substituted compliance arrangements with other regulators or supervisors with the goal of mitigating the effects of regulatory redundancy and conflict when it is justified by the quality of foreign regulation, supervision and enforcement regimes, paying due respect to the U.S. regulatory regime*." In addition, the report observed that "*inappropriately applying approaches to regulation in U.S. capital markets that are ill suited to our jurisdiction or bank-centric would stifle otherwise vibrant markets while not efficiently enhancing financial stability or consumer protection*."

This paper, therefore, after assessing the benefits of regulatory cooperation, examines three broad models on which future regulatory cooperation could be based in the context of the unique opportunities that 2019 affords us to improve co-ordination. It examines:

- The concept of enshrining mechanisms of regulatory cooperation in the text of formal trade and investment agreements, a theme that was prominent during the Transatlantic Trade and Investment Partnership (TTIP) process between 2013 and 2016;
- Existing bilateral regulatory mechanisms such as those that exist between the United States and European Union;
- A practical middle-way between the two—forging a new standard of regulatory cooperation, grounded in strong commitments by the cooperating parties as to how they will function and be governed and allowing a meaningful role for the private sector without, initially at least, codifying this within a trade and investment agreement.

[4] https://www.treasury.gov/press-center/press-releases/documents/a-financial-system-capital-markets-final-final.pdf

The Importance of Advancing Regulatory Cooperation Now

As the volume and complexity of regulation governing the financial services industry has grown, so has the importance of effective regulatory cooperation between governments, their regulatory agencies and their overseas counterparts. Regulation is important and helps society achieve goals of financial stability, transparency safety and soundness. But growth and job creation are also crucially important; regulating in a broadly consistent way across borders is vital if markets are not to be inadvertently distanced from, or closed off to, foreign capital. Stability and growth are compatible (and often complementary) but effective regulatory cooperation is an essential ingredient for both in a global economy.

G20 leaders recognized this[5] at the historic G20 Pittsburgh Summit in September 2009 when they resolved to:

'… take action at the national and international level to raise standards together so that our national authorities implement global standards consistently in a way that ensures a level playing field and avoids fragmentation of markets, protectionism, and regulatory arbitrage'.

Yet, despite this commitment to consistency, as well as many re-affirmations by leaders at subsequent G20 Summits, global approaches continue to be undermined by the unilateral and uncoordinated implementation (and extraterritorial application) of rules by individual jurisdictions.

This acts to the detriment of global markets, with consequential impacts on the services available to consumers. The consequences include fragmentation, increased barriers to entry, a reduction in products available to end users, and reduced market liquidity. Additionally, in some cases, unaligned rules had extra-territorial impacts that effectively require market participants to restructure their entire businesses and inevitably impact market growth in affected jurisdictions. Finally, fragmentation can reduce the ability of end users in the rest of the economy to properly manage risks by increasing the cost of transactions or by making trading too burdensome or impractical.

The economic costs of the resulting fragmentation are significant. IFAC (International Federation of Accountants) and Business at the OECD (BIAC) surveyed over 250 regulatory and compliance leaders from major global financial

[5] https://www.treasury.gov/resource-center/international/g7-g20/Documents/pittsburgh_summit_leaders_statement_250909.pdf

institutions and estimated that a piecemeal approach to financial sector regulation costs the global economy at least $780 billion USD a year.

Moreover, evidence suggests that regulatory divergence has a disproportionate impact on smaller firms. In the financial services area, that is particularly negative for smaller business in that it not only makes it harder for smaller scale financial institutions to transact across borders, but it also pushes up the costs of financial services to smaller firms in all other sectors of the economy.

Viewed from the opposite perspective, in terms of the material *benefits* from effective cooperation, the OECD notes that:

'…..examples from the trade area show that greater coherence of regulations can lower time and costs for firms and citizens having to comply with multiple regulatory requirements. Co-operation is also likely to bring substantial gains to regulators, who are able to pool knowledge and resources through cooperating with their peers across borders.'[6]

There are various impediments to developing coherent rules. One of the barriers is inconsistency in the implementation process, which is observable not only in the substance, but also in the process for implementing the new standards although the range of assessments made by international organizations like the Basel Committee and Financial Stability Board are helpful here. These inconsistencies often emerge because of the different legal and political models, consultations and issuance processes and timelines. For example, in the U.S. and EU, primary legislation is often required to at least transpose some of the international standards or commitments, and it is often at this stage that differences start to emerge. These disparities are driven by the fact that the international standards are usually drawn up by regulators but, at least in the U.S. and EU, enabling legislation often has to be determined through political decisions. More broadly, the OECD has observed that "*despite the growing trend in regulatory co-operation, decision making on International Regulatory Cooperation (IRC) is not based on a clear understanding of benefits, costs, and success factors of the various IRC options*."

The coming year represents a unique opportunity to examine the landscape of existing bilateral regulatory cooperation mechanisms and to explore ways of improving and strengthening them. This unique opportunity arises for a number of reasons:

[6] http://www.oecd.org/gov/regulatory-policy/international-regulatory-cooperation-policy-brief-2018.pdf

- Ten years following the Pittsburgh Summit, it is important to take stock of how successful the G20 countries have been in meeting the goal to "avoid(s) fragmentation of markets, protectionism, and regulatory arbitrage."
- Regulatory cooperation is positive for economic growth. As governments continue to explore new ways to boost investment, growth and job creation, assessing how cross-border regulatory harmony could be enhanced would be materially beneficial.
- In the U.S., policymakers are examining important trade and investment relationships with other jurisdictions. It is vital that regulation – and specifically cross-border regulatory dynamics – is considered as part of these processes even if, as discussed below, regulatory issues are ultimately addressed outside the confines of formal trade and investment agreements. Regulatory barriers have similar effects as trade barriers in keeping out foreign participation in markets so it is important to capture these issues as part of the same conversation.
- The United Kingdom will likely officially cease being a member of the European Union in the coming year, paving the way for that country to forge ahead with developing new relationships with other jurisdictions. Given the importance of the UK as a financial center, it would be a wasted opportunity to not use this scenario to take a comprehensive look at regulatory cooperation arrangements and ways in which they could be improved.
- At the multilateral level, Japan has prioritized regulatory cooperation as part of its G20 Presidency while the FSB is embarking on a new coherence-focused workstream following the direction of the Buenos Aires G20 summit of last year. These create new opportunities at the multilateral level to strengthen dialogue and co-operation. Complementing that renewed multilateral effort with reinvigorated bilateral cooperation mechanisms will maximize the growth dividend to all G20 economies.

What is Regulatory Cooperation?

The United State Chamber of Commerce has made an important distinction between 'Regulatory coherence' and 'Regulatory cooperation'7:

"Regulatory coherence" is about good regulatory practices, transparency, and stakeholder engagement in a domestic regulatory process. "Regulatory cooperation" is the process of interaction between regulators, founded on the benefits regulators can achieve through closer partnership and greater regulatory interoperability.

In other words, regulatory coherence is the goal and cooperation a means to get there; it is coherent regulatory outcomes that ensure cross-border investment is not unnecessarily impaired, or markets bifurcated. But regulatory cooperation arrangements that promote meaningful and constructive dialogue are essential to the delivery of those outcomes. The goal fully recognizes that regulation is domestically controlled and enacted, the means enhances both the design and implementation mechanics to achieve internationally aligned outcomes.

The OECD has identified 11 mechanisms for regulatory cooperation, from the most binding one being harmonization of rules via joint institutions to the lightest form of cooperation by exchange of information among regulators. This paper takes a more simplified approach and examines just three high level models. First, it re-visits the debate around how financial regulation might be enshrined in trade and investment agreements. Second, it examines the kinds of ad-hoc dialogues that currently exist between jurisdictions, such as the U.S./EU Regulatory Forum. Finally, it explores the possibility of threading a middle ground between these two models – a new means of regulatory cooperation that is much more effective and resilient than what there is presently but which acknowledges the political constraints that overshadow the likelihood of enshrining cooperation within formal trade agreements in the foreseeable future.

[7] https://www.uschamber.com/sites/default/files/regulatory_coherence_regulatory_cooperation_-chamber_ttip_paper-final_2.pdf

Financial Regulation in a Trade Agreement

There has been a substantive discussion in recent years regarding the relationship between financial regulatory cooperation and trade and investment agreements.

Trade and investment agreements have traditionally concerned themselves with harmonizing market access. But, increasingly, regulatory differences are impeding cross-border trade and investment in a range of industries, financial services included. While trade negotiations and the resulting agreements are not the appropriate place to delineate technical rules and regulations, they do offer a platform to establish regulatory cooperation *mechanisms* that can then bring together regulators and policymakers and help them to meet their regulatory objectives in a manner that is consistent with supporting cross-border investment.

SIFMA engaged heavily with the previous U.S. administration, the European Commission and others on the TTIP negotiations.[8] As part of that process, there was significant discussion regarding the possibility of including a new framework for financial regulatory cooperation within the text of the TTIP agreement.[9] SIFMA continues to believe that had TTIP ultimately come to pass a framework *within it* for the two sides to discuss regulatory issues would have been the best outcome and – most importantly - would have maximized the financial services industry's contribution to growth through that agreement.

However, much has happened since TTIP was under active consideration. For example, in the summer of 2016 the previous U.S./EU Financial Markets Regulatory Dialogue was revamped to become the U.S./EU Regulatory Forum (see next section). Moreover, since TTIP, the United Kingdom, home to the EU's largest capital market and most vibrant financial center, has voted to leave the EU. The U.S. is also actively considering future trade and investment relationships with other economies (including with the UK and EU). So, the model that looked the best option in 2013, when TTIP was initially advanced, need not be the most appropriate model in 2019.

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[8] See, for example, https://www.sifma.org/wp-content/uploads/2017/05/sifma-submits-comments-to-the-ustr-on-ttip-and-requesting-to-testify.pdf

[9] See, for example, https://www.huffingtonpost.com/chris-brummer/want-to-save-doddfrank-co_b_3510596.html

There are many advantages to having regulatory cooperation in a trade agreement.

- Trade agreements provide the structure, resources, and high-level political commitment that many international regulatory dialogues lack.
- Trade agreements are legally binding and that secures follow-up and implementation, as well as increasing accountability of regulators. A trade agreement increases the policy-makers' ability to resist domestic pressures from particular sectors to deviate from a liberal trade policy set out in the agreement.
- In addition, the process of undertaking trade talks with a view to developing a regulatory cooperation mechanism with it can provide the context and impetus for regulators to initiate and maintain ongoing, iterative cooperation with their counterparts.
- Finally, framing within the context of a trade agreement recognizes explicitly that avoidable regulatory divergences act as barriers to cross-border flows of financial services.

It is also important to be clear regarding what incorporating regulatory cooperation in a trade and investment agreement – at least as far as what industry has in the past advocated for - does <u>not</u> mean. The financial services industry has never advocated for complex issues of financial regulation being determined by trade policy negotiators. In the U.S., the Federal Reserve, SEC, OCC, CFTC and other agencies would retain the same sovereignty they have at present; in the UK, the same would apply to the FCA and so forth. Instead, a trade agreement would simply establish the goals of the co-operation, including any specific cross-border trade and investment objectives, recognize the intent for regulatory agencies to collaborate and avoid unnecessary divergence or duplication of activities, and the framework within which the respective regulatory agencies would convene, perhaps prescribing some details in terms of the frequency of meetings and establishing terms of stakeholder consultation.

However, as scholars Doug Elliott and Martin Bailey noted in 2013:
"There is an understandable reluctance among many, including the U.S. Treasury Department, to mix trade negotiations with important and complex financial regulations, especially given the critical importance of financial stability."

It may, therefore, be that enshrining means of regulatory cooperation in a formal trade and investment agreement is too ambitious at this time. While SIFMA believes that this could be done in a way that contains the concerns that sceptics of such a model hold, we also recognize the sincerity of those concerns. Given the window of opportunity in 2019 to effectively strengthen regulatory cooperation, it is therefore sensible to acknowledge the political and logistical constraints and to advance the discussion through examination of a broader range of models.

Existing Ad-Hoc Agreements for Regulatory Cooperation

There are various existing mechanisms that facilitate bilateral (and sometimes trilateral) regulatory cooperation. Perhaps the most well-known bilateral regulatory dialogue is the U.S./EU Regulatory Forum – which itself evolved out of the U.S./EU Financial Markets Regulatory Dialogue (FMRD). The FMRD was initiated in 2002, at a time of significant regulatory flux in both the European Union and in the United States. At that time, the EU was continuing its efforts to establish a single market in financial services by implementing the "Financial Services Action Plan" (FSAP), consisting of various regulatory and legislative measures to foster pan-EU integration. In the U.S., regulators were continuing to implement provisions of the Gramm-Leach-Bliley Act and Congress was considering reforms that led to the adoption of the Sarbanes-Oxley Act. The FMRD was, therefore, designed to foster a better mutual understanding of U.S. and EU regulatory approaches and to identify potential substantive conflicts in approach as early in the regulatory process as possible.

The FMRD was really put to the test following the 2008-09 financial crisis and the regulatory responses that followed. Specifically, as the U.S. and EU advanced their respective financial reform agendas, the FMRD appeared unable to avoid the emergence of regulatory divergences between the two jurisdictions.

Following strong urging by the financial sectors in the U.S. and the EU, in July 2016, the U.S. and EU announced the establishment of a successor to the FMRD – the U.S./EU Regulatory Forum – which was intended to be a more robust platform for information sharing and coordination that would deliver:

"…..even more purposeful bilateral regulatory cooperation geared towards the further promotion of financial stability; investor and consumer protection; fair, orderly, and efficient markets; and capital formation on both sides of the Atlantic."

The EU also holds regular talks on financial regulation with Japan, China, Canada, India, Russia and Brazil. The US has comparable dialogues with Mexico and Canada (established in parallel, but separate from, the USMCA), Korea and India amongst others.

The results of some of these dialogues have been positive yet fallen short of what, with more robust designs, they could achieve. This is evidenced most clearly in the ongoing regulatory divergences between jurisdictions such as the U.S. and EU where the potential for cooperation, given the relative sophistication of these markets, would seem to be greatest. Most fundamentally, existing mechanisms have been unable to fully mitigate regulatory divergences and the consequential loss to global economic growth. Examples of regulatory frictions include different approaches to elements of international banking, derivatives and research, for which many of the rules have been re-visited with these co-operation mechanisms in place.

In terms of their *design*, existing bilateral frameworks have several weaknesses including:

- **The ad-hoc nature of existing mechanisms** – By their very nature, existing mechanisms are very fluid with little by way of universally understood rules of the road to govern them. And while that flexibility can have merits, it means these processes lack predictability or robust process and the outcomes that they derive are largely based on factors such as the quality of relationships between the interlocutors rather than the quality of the underlying dialogues.

- **Lack of transparency** – Existing dialogues typically suffer from not being telegraphed sufficiently in advance and the contents of the discussion themselves are only minimally shared with the public and stakeholders.
- **Insufficient consultation with, and input from, industry –** Relatedly, the role for the financial services industry in terms of inputting into regulatory fora is extremely limited and unpredictable. Industry input in determining agendas and priorities is not a prominent feature of existing regulatory cooperation mechanisms. When it is sought, it is often too late to make a credible difference.
- **Insufficiently forward-looking** – While existing regulatory cooperation mechanisms have certainly addressed many important issues in recent years, they have typically done so very late in the implementation process – usually too late to result in material changes in order to make rules more internationally compatible.

Towards a New Standard of Regulatory Cooperation Mechanism

With significant political and logistical constraints surrounding the concept of enshrining a regulatory cooperation mechanism within trade and investment agreements, but existing mechanisms that already exist having fallen short, the next year or so provides a superb opportunity for a fresh start. Policymakers in G20 countries and beyond should therefore work with stakeholders to establish new means of regulatory cooperation with the goal of facilitating the role cross-border finance can play in boosting growth and jobs. The processes and arrangements underpinning such mechanisms should be clearly specified and made public and policymakers and regulators should commit to stick to the rules of the road through some form of agreement such as, for example, a Memorandum of Understanding.

Potential Best Practices for Future Regulatory Cooperation

It is helpful to consider how improved regulatory processes would work in practice. Defining parameters or features that could define more effective cooperation mechanisms first then allows us to go on to consider how jurisdictions could commit to a particular design without having to rely on trade law.

First, it is important to define the **core members** participating as part of the coordination mechanism and the **departments and agencies** they represent for their jurisdiction. Some influence could be drawn here from the G20 process where leaders and Central Bank Governors are ably supported by designated Sherpas, Sous Sherpas and other. Identifying lead organizations and the representative within them is important in setting and telegraphing the essential scope of the regulatory cooperation process and ensuring that the work of the fora is 'owned'. Of course, fluidity is important and there will be occasions when non-core participants should be involved (e.g. when tax policy impinges on regulatory issues then tax policy experts will need to have a presence). Core lists, at least at Principal and Deputy Level, should be made public and updated in real-time whenever individuals move on.

Second, there should be clearly understood overarching **objectives** for bilateral fora. Information exchange and broad cooperation should be amongst these but there also needs to be an explicit goal for bilateral processes to cover, address and ultimately head-off potential regulatory divergences that risk bifurcating capital. Making such an objective explicit would give recognition to the importance of balancing regulation with healthy cross-border capital markets and would help establish some form of accountability, albeit in softer form than trade or other type of actual law. And as mentioned in the weaknesses in current regulatory dialogues, there needs to be greater consideration of forward-looking in regulatory developments. In order to avoid dialogues that discuss policy late in development, we believe dialogues should have mandates to have forward-looking regulatory discussions. We understand that such discussion would be well-served to be closed in order to have more candid deliberation of future policy issues. Private-sector participation in such issues could be provided via requests in consultations or through active participation and a requirement for non-disclosure agreements.

Third, there should be clear, publicly communicated **timetables** governing meetings of two or more jurisdictions and the processes leading up to those taking place. The dates of bilateral regulatory cooperation meetings should be signaled well in advance – at least six months before they take place. G20 Leaders can commit their diaries to G20 meetings a year or more in advance. Regulators should be able to do the same. To create a more structured dialogue, nearer the spectrum of a trade agreement, dialogues could include an expanded governance structure to ensure cooperation. This could take the form of specific policy working groups with respective mandates to allow an increased role for technical expertise.

An argument against this level of forward planning is that it reduces the flexibility that jurisdictions may need to time meeting dates around important domestic regulatory developments or decisions which will sometimes allow two or more sides to have a more informed discussion. However, formal regulator cooperation meetings should not be regarded as the entirety of a bilateral coordination process – they are ultimately the pinnacle of a much deeper, continuous and dynamic process between two jurisdictions. The world will not pause before or after such meetings and both sides will need to have ongoing contact and dialogue. Moreover, for the most important financial centers, this is an argument for establishing dates for more than one meeting every year. There will always be arguments for why one particular week or one particular month might be a better time to hold a meeting but they do not overshadow the clear benefits in terms of transparency and planning, as well as in terms of the rhythm of a bilateral relationship, of fixing the meeting dates in advance.

Fourth, there should be active recognition of and influence on **multilateral developments**. Organizations such as the Basel Committee and Financial Stability Board are successful in setting international agendas and standards. Bilateral regulatory co-operation should include active engagement at international level, in recognition that any network of bilateral co-operation is ultimately international. There is significant opportunity for the learnings from bilateral co-operation to feed into international standards and well as bilateral initiatives to benefit from international standards. The network of bilateral co-operation will provide strong mechanism for adoption of convergent international standards.

Transparent timelines will in turn lay the foundation for a fifth crucial element: **meaningful consultation** with industry and other stakeholders regarding both the issues that should occupy the agenda and how best to approach those issues. The addition of private-sector consultation could add to the dialogue's agenda items for discussion. There is a need for intra-regulatory discussions concerning the future of financial services and the role of regulation to adapt to new technologies.

Private-sector and other stakeholder consultation can add depth to cross-border issues and highlighting what the industry sees as areas in need of cross-jurisdictional cooperation.

Regulators should also clearly understand how financial services institutions outside their home country are treated by other regulators. Dialogues should be used to increase **transparency** in how regulators treat foreign institutions, with home regulators being able to share greater information and insight concerning domestic regulation affecting these institutions.

There should also be a solid commitment by the participating regulators and policymakers to make public the outcomes and conclusions of meetings within one week of meetings as well as follow-up meeting with industry and others to discuss the outcomes in more details and share thoughts on subsequent steps.

Finally, while formal meetings are hugely important, they are only one part of what should be **continuous processes** of dialogue between two or more jurisdictions. Doing more to help the outside world understand those broader processes – such as doing more to telegraph when dialogue participants are engaging the other jurisdiction outside of the normal dialogue meeting cycle – would be another worthwhile innovation.

In the absence of including all this in a trade agreement, how should jurisdictions set out agreement on such a process? In SIFMA's view, details such as these could be enshrined in a Memorandum of Understanding, setting out the terms and responsibilities between the two sides. The door could then be left open to elevating such an agreement to a more formal context such a trade agreement later if both parties agreed.

This is not an exhaustive description as to what more effective coordination mechanisms could look like and industry does not have a monopoly of knowledge on designing new ad improved mechanisms. Instead, we put forth these suggestions as a starting point for discussion with authorities in the hope of working together to forge ahead together in delivering such improved regulation and the resulting benefits to international growth that it would facilitate.

Conclusion

Effective regulatory cooperation between regulators in different jurisdictions is vital in both delivering financial stability and ensuring that the global financial system can make its full contribution to economic growth. Cooperation must take place at the multilateral and the bilateral level. Existing bilateral mechanisms such as the U.S./EU Forum are insufficiently robust to help the two jurisdictions really enhance the coherence of their respective regulations. However, until now, divergent thinking of how to materially improve bilateral cooperation has impeded achieving a real step change in how it is achieved and executed. This paper has sketched out how a middle way could be achieved between existing mechanisms and the ideal of enshrining cooperation within legally binding trade agreements. SIFMA looks forward to discussing these ideas with others in industry, Government and the regulatory community in coming months.