

**United States-United Kingdom Financial
and Related Professional Services:**

A Foundation for Transatlantic
Growth, Jobs and Security

THE
BRITISH
AMERICAN
FINANCE
ALLIANCE

APRIL 2024

EXECUTIVE SUMMARY

Since 2020, the British American Finance Alliance¹ (BAFA) has supported two key U.S.-UK dialogues: the Financial and Regulatory Working Group (FRWG), and Financial Innovation Partnership (FIP).

In that time, new challenges emerged, and existing ones evolved: the COVID-19 pandemic, rising geopolitical tensions and accelerating climate and technological change. Moreover, the UK has fully left the European Union and is now designing and implementing regulations independently.

Elections are expected in both countries in the second half of 2024. These will determine the political foundation of the bilateral relationship for the next four years. BAFA has identified multiple immediate priorities for the financial services sector:

- **T+1 settlement:** non-standard settlement cycles, cut-off times, storage requirements.
- **Basel III Implementation:** discussion and coordination regarding cross-border impacts.
- **Asset management:** regulations by both countries impacting buy-side firms.
- **Sustainability and climate reporting:** climate disclosure standards and Voluntary Carbon Markets.
- **Data and the Digital Economy:** sustaining and expanding the U.S.-UK data-bridge.

Other *longer-term* issues, looking towards the ongoing U.S.-UK dialogue and future FRWG and FIP meetings, include:

- National security and cyber threats.
- Harmonised approaches to operational resilience with respect to third countries.
- Approaches to non-bank financial intermediation.
- Investment research.
- Digital assets.
- Talent optimisation, including diversity and inclusion, professional standards and mobility.
- Global insurance policy leadership.
- Continued cooperation to reduce trade frictions of all kinds

BAFA looks forward to deepening and broadening our engagement with the U.S.-UK authorities to the mutual benefit of both economies' shared prosperity and security.

¹ BAFA's members are: Alternative Investment Management Association (AIMA), • American Council of Life Insurers (ACLI), • American Property and Casualty Insurance Association (APCIA), • Association of British Insurers (ABI), • Association of Chartered Certified Accountants (ACCA) • Association for Financial Markets in Europe (AFME), • BAFT (Bankers Association for Finance and Trade), • Bank Policy Institute (BPI), • British American Business (BAB), • City of London Corporation, • Coalition of Services Industries (CSI), • Financial Services Sector Coordinating Council (FSSCC), • Institute of Chartered Accountants in England and Wales (ICAEW), • Investment Association (IA), • Investment Company Institute (ICI), • Securities Industry & Financial Markets Association (SIFMA), • TheCityUK (TheCityUK), • U.S. Chamber of Commerce (USCC), • UK Finance.

The British American Finance Alliance

In October 2020, over twenty groups representing the UK and U.S. financial and related professional services industries joined together to form BAFA. The Alliance is chaired jointly by Chris Hayward, Vice Chair of TheCityUK and Chair of the Policy at the City of London Corporation (CoLC), and Ken Bentsen, CEO and President of the Securities and Financial Markets Association (SIFMA)².

At its launch, BAFA proposed a united business vision for U.S.-UK regulatory cooperation and dialogue, which was set out in an accompanying paper³. It was in large part the industry's response to the FRWG, which was established between the two Treasury departments and independent regulatory authorities in 2018 *"to deepen bilateral regulatory cooperation and to enhance: financial stability; investor protection; fair, orderly, and efficient markets; and capital formation across both jurisdictions"*.

Developments since the inception of BAFA

Recent influences on the U.S.-UK relationship in financial services include systemic challenges and policy responses.

Systemic challenges

- In 2020, the COVID-19 pandemic caused unprecedented disruption to the global economy. The pandemic also resulted in significant changes in working practices and consumer behavior that continue to reverberate. The COVID era also impacted investors and regulators in multiple ways.
- As health challenges have subsided, geopolitical tensions have increased and span all continents and their financial sectors.
- Climate related risk continues to demand our attention and resources..
- Technological change has accelerated. Artificial Intelligence breakthroughs are increasing at pace and there has been increasing global interest, led by the UK and U.S., on both positive and negative effects. With growing digital trade, cyber risks pose a potentially systemic threat to economic security and prosperity.

Policy responses

- On 8 June 2023, the United States and the UK announced the Atlantic Declaration for a Twenty-First Century U.S.-UK Economic Partnership to ensure that the *'unique alliance'* between the two economies *'is adapted, reinforced, and reimaged for the challenges of this moment.'*
- Industry and policymakers have incorporated diversity and inclusion and objectives in more transparent and structured ways and continue to strive to advance progress in this area.
- The volume of policy and regulatory rulemaking has been significant in both countries.

The Economic and Commercial Context

- Trade and investment in financial services between our economies have continued to expand. Bilateral trade in financial and professional services grew by 5 percent per year in both directions since 2018.

² BAFA's Executive Committee is SIFMA, CoLC, TheCityUK, IA, UK Finance, BPI, ACLI and USCC. SIFMA, CoLC and TheCityUK are its secretariat.

³ <https://www.sifma.org/wp-content/uploads/2020/09/British-American-Finance-Alliance-Scoping-paper-on-formalizing-UK-U.S.-regulatory-dialogue.pdf>.

- New York and London have retained the first and second place positions respectively in the Global Financial Centers Index of market competitiveness.
- The importance of the UK to U.S. outbound direct investment in financial services has continued to grow. The UK is the destination of almost a quarter of U.S. foreign direct investment in financial services.

All these developments have implications for the shape of U.S.-UK financial and professional services relations.

Looking Ahead

In 2024, the U.S.-UK FRWG will have been in existence for six years, three of which have been during the period the UK officially exited the EU. The FRWG played an important role in managing the Brexit transition and is now evolving to address forward-facing issues. Establishment of the FIP, which runs parallel to the FRWG, is a positive development.

Financial and professional services have considerable potential to drive growth in both countries and help meet wider strategic objectives. For example, it is estimated that for every job created in financial services, three more are created in the rest of the economy.

For that potential to be realized, bilateral regulatory collaboration needs to work towards maximizing gains in regulatory coherence and ensuring that the landscape of policies and rules supports transatlantic investment. We believe there is an important role for industry, through BAFA, to support policymakers and regulators in achieving this goal⁴.

As part of a continuous dialogue, financial services trade can be further facilitated, and frictions reduced, by the application of certain regulatory recognition measures (such as “deference” or “substituted compliance”), by relevant UK and U.S. Financial services regulatory authorities. We encourage the authorities to use these tools for the mutual benefit of their respective markets and its participants.

The Emerging Agenda for 2024 & Beyond

The FRWG and FIP meetings typically cover the following broad issues: 1) economic and financial stability outlook 2) international banking issues 3) developments in the non-bank sector 4) climate-related financial risks and sustainable finance 5) international engagement and 6) digital finance.

These issues will continue to be an important part of the international dialogue. However, as U.S.-UK priorities evolve, the agenda of the FRWG needs to be dynamic and dialogue members recognize the long-term value of complementing these efforts with parallel work to address additional cross-cutting issues. FRWG meetings are an important part of U.S.-UK co-ordination but they are significant milestones in a continual process of dialogue and information exchange⁵.

⁴ BAFA is also evolving to meet this challenge. BAFA has established an Executive Committee to provide more cohesion to the coalition's efforts and support its advocacy function.

⁵ The most recent FRWG took place on 31st January in London.

BAFA priorities 2024 FRWG and FIP Meetings

BAFA's immediate priorities for the 2024 iterations of the FRWG and FIP focus on the financial regulatory agenda.

Priorities for the Financial Regulatory Working Group:

- **T+1 settlement:** The SEC voted in 2023 to shorten the settlement cycle to one business day with the implementation date set for 28 May 2024. It will be important for the potential adoption of T+1 to be approached in a structured and coordinated way by industry and regulators especially considering the Central Securities Depositories settlement discipline regime put in place to penalise settlement failures in the EU.
 - **Specifics:** BAFA asks the SEC to **reaffirm that non-standard settlement cycles** will be permissible if expressly agreed with the broker from the 28 May 2024, as outlined in the regulation, and conditional upon firms not leveraging non-standard settlement systemically.
 - The SEC and the Federal Reserve Board should encourage custodian banks to review their existing **CLS Settlement cut-off times** and encourage the implementation of a later deadline to access Payment versus Payment (PvP) netting, both in terms of the deadline imposed by the custodian and for the utility itself. The provision of an additional two hours would provide additional flexibility for firms looking to access PvP netting.
 - BAFA members seek temporary forbearance from **the initial books and records storage requirement** for registered investment advisors (RIAs) for affirmation. We note to the SEC that, whilst affirmation awareness outside of the U.S. has improved, some firms will still struggle to be ready for May 2024. Custodian engagement on how they can assist has improved but had been slow.
 - BAFA also suggests the UK **update their U.S. counterparts** on the status of the Accelerated Settlement Taskforce and next steps following its report of April 2024.
- **Basel III Implementation:** It is vital to cross-border capital markets that rules and regulations are consistent and interoperable across jurisdictions. The Federal Reserve and other banking agencies recently concluded open consultations related to Basel III standards and have received considerable public commentary on their proposals.
 - **Specifics:** We encourage **ongoing discussion at the FRWG and between officials of the potential cross-border impacts of the existing U.S. proposal**. It would be helpful to emphasize that the original purpose of the Basel III reforms was to improve comparability in capital requirements across firms and across jurisdictions, yet unfortunately the U.S. proposal, as currently written, appears to move in the opposite direction. This will only encourage further capital fragmentation, with negative consequences for global financial stability and economic growth.
- **Sustainability and reporting: Investors and the financial services sector may play an important role in funding transition to a low carbon economy.**
 - **Specifics:** BAFA sees value in U.S.-UK collaboration as the UK develops its **climate disclosure framework** and consults on implementation of ISSB standards following the U.S. Securities and Exchange Commission (SEC) releasing its own ruleset. BAFA members advocate interoperable

standards subject to such standards being appropriately tailored to meet clear regulatory objectives. We note as well that U.S. states are mandating TCFD based climate public reporting covering 80% of the U.S. insurance industry.

- BAFA also encourages bilateral dialogue on **Voluntary Carbon Markets** as the UK drafts its consultation and U.S. regulators develop sector guidance.
- **Prudential regulation:**
 - **Specifics:** The Commodity Futures Trading Commission should complete its process for issuing a comparability determination order for UK Prudential Regulation Authority's capital and financial reporting requirements. The Institute of International Bankers, the International Swaps and Derivatives Association, and the Securities Industry and Financial Markets Association submitted the application on behalf of CFTC-registered nonbank swap dealers subject to the UK PRA's prudential supervision and a letter supporting the Commission's related proposal.
- **Asset Management and Funds Issues**
 - (a) **Safeguarding rule:**

There are risks of unintended consequences of implementing the SEC's proposed Safeguarding Rule which include discouraging the management of UCITS portfolios by U.S. asset managers. In addition, the proposal would apply U.S. law to non-US sub-custodians and make it more difficult for U.S. investors to deploy capital abroad.

 - **Specifics:** There is scope for further **discussion on minimizing the detrimental impact on investors from such policies.**
 - (b) **Pension Funds:**

In late November 2023 the UK government introduced the **Leasehold and Freehold Reform Bill (Bill)**. The UK Department for Levelling Up, Housing and Communities has consulted on proposals to retrospectively cap ground rents on existing leases. This risks harming the steady and stable returns of foreign investors, negatively impacting investor confidence and the attractiveness of the UK as an investment destination, and affecting insurers taking on liabilities from defined benefit schemes.

 - **Specifics:** The financial impact of the proposals on existing investments need to be fully accounted for and considered by Government in advance of any decisions being taken. **The FRWG would benefit from the UK updating their U.S. counterparts.**
 - (c) **Overseas Funds Regime:**

The FCA is currently consulting on the practicalities of the Overseas Funds Regime, the framework for recognition of non-UK funds for the purposes of marketing to UK retail investors. U.S. headquartered asset managers with EU-based financial products will need to rely on the OFR when it is activated for marketing of UCITS and potentially other non-UK funds in the UK. The OFR is of critical importance to the competitiveness of the UK's asset management sector.

 - **Specifics:** We would encourage discussion at the FRWG. UK policymakers should not view the OFR as simply a market access benefit to the EU, but as critically important to global asset managers operating in the UK. **Providing certainty on the OFR will help underpin the predictability of the UK market.** The outlook for the timeline and sequencing for enacting

legislation necessary to give effect to any potential equivalence determination is of significance to U.S. based industry.

(d) Liquidity:

Liquidity is important for efficient and effective capital markets. Fostering greater mutual understanding around liquidity management remains important.

- **Specifics:** The SEC's proposal to require mutual funds to adopt mandatory swing pricing and impose a "hard close" cut-off time is pending, and it is vital that **regulators recognize the adverse impact such requirements would have on investors** and that the costs and disruption would be significant.
- There is further value expounding the UK's adoption of Long-term Asset Funds (LTAF). The Financial Conduct Authority (FCA) introduced the LTAF to provide a UK authorised open-ended fund structure that enables investment in long-term, illiquid assets. As the regime beds in, **the FRWG should promote U.S. understanding of the new requirements and outstanding issues.**

Priorities for the Financial Innovation Partnership:

- **Data and the digital economy:** The Financial Services sector is one of the most data intensive trading industries. Firms' ability to transfer data around the world, and freely across jurisdictions, is as important as the ability to sell services and move people.
 - **Specifics:** BAFA members encourage discussion on **data free flows, protections against forced data localization and protection of source code**, all issues of vital importance to the sector. U.S. Treasury has shown admirable leadership on these issues in the past and it is important that the U.S. assure overseas partners that the recent U.S. change of position on certain digital trade disciplines under discussion in the WTO e-commerce negotiations does not signal a weakening of the longstanding U.S. policy. We note as well that U.S. state insurance regulators are issuing common guidance on AI that reinforces the unique insurance regulatory standards and the importance of proportionality.
 - Relatedly, establishment of the **U.S.-UK Data Bridge** was a positive development. The bilateral dialogue should focus on protecting this arrangement in the face of expected challenges. The upcoming UK-EU data adequacy agreement should be reviewed closely given the implications this will have on U.S. firms in the UK.

Long-term BAFA priorities for focus in between the FRWG and FIP cycles

In addition, BAFA has identified longer-term themes for the U.S.-UK FRWG, and other mechanisms, to pursue through 2024 and beyond:

Priorities for the Financial Regulatory Working Group:

- Continued work to address trade barriers of all kinds.
- **Financial Services and National Security:** The nexus between technological and

economic security and financial services has rarely been closer. Tensions between China and Western economies, conflicts in Ukraine and Gaza and the continued development of multiple sanctions regimes are impacting cross-border financial flows. Sophisticated nation state cyber adversaries also present considerable challenges. Sharing intelligence and perspectives on these issues is critical to both maximizing the success of existing policies and avoiding unintended consequences.

- **Operational Resilience:** The U.S., EU and UK are all developing regulatory approaches to Operational Resilience. The dialogue could focus on aligning approaches where possible and resisting increasing global protectionism regarding critical third-party providers. The dialogue could also explore the use of deference/substituted compliance powers in areas such as resilience testing of critical third-party providers and establishing global agreement on treatment through the G7.
- **Non-bank financial intermediation (NBFI):** The NBFI sector is very diverse and includes insurance, broker-dealers, asset managers, venture capitalists, microloan organizations and others. These entities are critical in providing the market-based finance that plays such a central role in our respective economies. They are also already subject to significant regulations shaping the operations of their businesses. The FRWG should facilitate discussion on how the UK and U.S. regulators respectively approach NBFI entities given existing regulatory approaches and the importance of not undermining their vital contribution to transatlantic prosperity.
- **Investment Research:** The UK Investment Research Review, led by Rachel Kent, was launched on 9 March 2023, to consider ways to expand the provision of levels of financial services investment research in the UK, and its contribution to UK capital markets competitiveness. It reported to the Chancellor of the Exchequer in 2023 and, in April 2024, the FCA put forward a proposal aimed at giving asset managers greater freedom in how they pay for research. Given the transatlantic importance of research and the ongoing re-percussions of the EU's MiFID II regulations and the expiration of SEC 'No Action' Relief in the U.S., regulators should liaise closely on potential paths forward.
- **Diversity and inclusion:** Research has shown that companies with more diverse workforces perform better financially and tend to be more successful. Sharing insight and perspective on initiatives and measures that may foster greater diversity and inclusion within the global market for financial services talent can help advance this priority in mutually beneficial ways.
- **Professional standards & mobility:** Promoting alignment of qualifications and standards amongst professions would be an area that could especially speak to BAFA's breadth and inclusion of professional services. It would also facilitate longer-term mobility of talent between our countries particularly at a time when the demand for skills will become more acute as AI and broader technological change impacts workforces.
- **Global Insurance Policy Leadership:** As major exporters of private enterprise insurance products and services globally, helping to meet international risk protection gaps, we ask U.S. and UK representatives to The International Association of Insurance Supervisors (IAIS) and The Organization for Economic Cooperation and Development to coordinate and support common approaches to international standards on insurance that support development of private sector risk protection to complement government efforts. As a priority objective, the U.S. and UK must work together to seek that IAIS confirm the fundamental value of cross border reinsurance, and coordinating U.S. and UK capacity building and technical assistance to India and other strategic priorities to support

a strong private insurance sector that is well regulated and benefits from global capacity to meet growth needs.

Financial services trade can be further facilitated, and frictions reduced, by the application of certain regulatory recognition measures (such as “deference” or “substituted compliance”), by relevant UK and U.S. Financial services regulatory authorities. We encourage the authorities to use these tools for the mutual benefit of their respective markets and its participants. It is critical that the uniqueness of insurance and insurance regulation be upheld.

Priorities for the Financial Innovation Partnership:

- **Digital assets:** U.S.-UK collaboration should seek alignment on the fundamental treatment of digital assets as financial instruments.
 - **Specifics:** BAFA looks to both countries to provide opportunities for cross-border innovation and experimentation with digital assets, including pilot programs to integrate DLT infrastructure and blockchain based securities and other digital assets within existing regulatory frameworks. For example, The City of London Corporation have suggested multijurisdictional sandboxes, to help develop interoperable regulatory approaches in response to emerging technologies and, potentially, authorization in multiple jurisdictions⁶. These efforts could also draw on lessons from the Global Financial Innovation Network (GFIN) and U.S. American Consumer Financial Innovation Network (ACFIN) initiative.
- **Artificial intelligence:** The UK and the U.S. have both initially sought to regulate AI with existing instruments, citing a desire to foster innovation whilst balancing the risks. The UK’s March 2023 White Paper states that the UK will not legislate to create a single function to regulate AI technology but will help existing regulators develop a sector-focused, principles-based approach, within a framework of guardrails. President Biden’s Executive Order of 30 October 2023 suggests the U.S. is also likely to prefer a de-centralized approach to innovation within guard rails. Meanwhile, on 8 December 2023, the EU reached political agreement on implementation of the EU AI Act. There is an opportunity for the UK and the U.S. to work together on creating a common or mutually recognized framework of guard rails for AI and related supervisory frameworks to promote innovation and job creation. These would aim to align U.S./UK views on cybersecurity, financial crime, market stability and treating customers fairly, as well as a supervisory framework focused on safety, security and robustness. For insurance, U.S. states are issuing common guidance that upholds timetested insurance regulatory standards and proportionality.

Conclusion

Given the leading roles of the U.S. and UK in international financial markets, FRWG and FIP meetings are opportunities to expand cross-border investment and mutual prosperity. The current agenda offers a particular fertile set of challenges and opportunities for the two jurisdictions to collaborate on technological, climate and other regulatory issues. The maximum gains from U.S./UK collaboration will come from viewing the two jurisdictions engagement as a marathon rather than a sprint. While it is important to focus on the upcoming FRWG in the near term both Governments, regulators and industry need to take a longer, more strategic view of what is achievable.

⁶ Vision for Economic Growth – a roadmap to prosperity. The City of London Corporation in partnership with Oliver Wyman. September 2023. <https://www.theglobalcity.uk/PositiveWebsite/media/Research-reports/Vision-for-Economic-Growth-%E2%80%94-a-roadmap-to-prosperity.pdf>

BAFA Membership

Alternative Investment Management
Association (AIMA)



American Council of Life Insurers (ACLI)



American Property and Casualty
Insurance Association (APCIA)



Association of British Insurers (ABI)



Association of Chartered Certified
Accountants (ACCA)



Association for Financial Markets
in Europe (AFME)



Bankers Association for
Finance and Trade (BAFT)



Bank Policy Institute (BPI)



British American Business (BAB)



City of London Corporation



BAFA Membership

Coalition of Services Industries (CSI)



Financial Services Sector
Coordinating Council (FSSCC)



Institute of Chartered Accountants in
England and Wales (ICAEW)



Investment Association (IA)



Investment Company Institute (ICI)



Securities Industry & Financial
Markets Association (SIFMA)



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US Chamber of Commerce (USCC)



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