

Mr Valdis Dombrovskis  
Vice-President  
European Commission  
Rue de la Loi 200  
1049 Brussels  
Belgium

Brussels, 26 June 2018

Dear Vice-President Dombrovskis,

The American Chamber of Commerce to the EU (AmCham EU) is a longstanding advocate of an open, well-functioning and appropriately regulated transatlantic capital market place. As we have stated on previous occasions <sup>1</sup>, we believe it is a crucial driver of long-term economic growth and competitiveness in Europe and the US.

The members of AmCham EU have been strong supporters of the G20 process aimed at strengthening the regulatory framework around international financial markets. We believe that these rules have led to increased resilience in the global financial system. In this context, we have consistently encouraged the EU and the US jurisdictions to engage in international fora and in implementing international standards consistently. We believe the creation of the enhanced Joint EU-US Financial Regulatory Forum ('the Forum') in 2016 was a step in the right direction, demonstrating the continued willingness and importance attributed to transatlantic regulatory cooperation.

AmCham EU continues to follow with interest the implementation of existing and ongoing discussions on future EU rules in financial services as regards "third country provisions"<sup>2</sup>, whilst strongly advocating for a coherent and more efficient approach to third-country equivalence. Third-country regimes and the related supervisory and regulatory practices determining third-country treatment are a crucial pillar of the EU's financial services policy. However, today, as Brexit negotiations unfold, EU policymakers are considering the future of EU regulatory cooperation with third-country jurisdictions and we have grown increasingly concerned that measures to deliver a stable and open financial system could potentially be undermined.

We agree that the world has changed considerably since the global financial crisis. At this critical time, we believe that avoiding fragmentation is the most effective way to deliver financial stability, while providing market participants with the regulatory certainty needed to operate. However, the EU's emerging approach on how financial firms access European markets from non-EU jurisdictions, could strongly impact the transatlantic marketplace and restrict the openness of markets. As firms with a deep and longstanding commitment to Europe, we are concerned that such measures would be to the detriment of consumers, businesses and governments, and would negatively impact the attractiveness of the EU. An open approach, ensuring that Europe maintains access to global liquidity, would also go a long way towards realising the ambition of building thriving EU capital markets.

We would highlight three concrete examples:

- **Central Counterparties (CCPs) supervision/relocation** – We are supportive of an enhanced comprehensive approach to the supervision of CCPs. However, the European Commission's proposal for EU authorities to potentially resort to forced relocation of CCPs within the EU is causing unhelpful uncertainty and we are concerned this could invite other jurisdictions to rethink their relationship with the EU. We believe policymakers should focus on achieving the objectives of financial stability and the resilience of CCPs, without causing markets to fragment. Cross-border market fragmentation could endanger financial stability

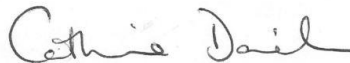
and would negate or reduce the benefits of the G20's post-crisis derivative reforms, which have led to improved risk management through netting and collateralisation, increased transparency and heightened resilience.

- **Delegation and outsourcing** – Recent work of the European Supervisory Authorities (ESAs) on delegation as well as the recently proposed ESAs Review (Article 31a in particular) create uncertainty around the ability for investment management companies to delegate portfolio management to financial centres across the globe. We are concerned about provisions that may confuse delegation with equivalence as these are very different concepts. Delegation gives EU investors access to global markets and investments while maintaining the appropriate levels of supervision and control for EU supervisors. Delegation has been one of the key pillars to the global success of UCITS, which in turn have been great success story for EU financial regulation. We are supportive of increased regulatory convergence in Europe with ESMA playing a central role as a standard setter, however giving ESMA a partial supervisory role here would create an unhelpful dual level of supervision.
- **MiFID II/MiFIR equivalence** – New proposals within the review of the prudential framework for investment firms, contain amendments to MiFIR dealing with the third country equivalence regime for investment firms providing wholesale services (Articles 46 and 47) within the EU from outside the EU. The amendments would suggest a departure from the EU's existing approach, which is intended to be 'outcomes-based', creating a higher bar for equivalence assessments. We understand that some Member States and Members of the European Parliament also support the forced establishment of subsidiaries and branches in the EU.

AmCham EU believes that authorities on both sides of the Atlantic should return to the cooperative spirit of the G20 process, looking to set an example to governments across the globe. Decision-makers should refrain from pursuing initiatives that would lead to market fragmentation, which in turn could lead to tit-for-tat retaliatory action, reducing the capital available and threatening the recent upturn in the global economy.

The American Chamber of Commerce to the EU looks forward to our continued engagement on this important subject and would be delighted to provide you with any other material you might find useful.

Yours sincerely,



**Catherine Davidson**  
Chair  
Financial Services Committee  
AmCham EU

<sup>1</sup> [AmCham EU's position paper on a Transatlantic Capital Markets Union, June 2016](#)

<sup>2</sup> [Third-country aspects of financial regulation: the EU's evolving approach, November 2017](#)