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Securities Industry and Financial Markets Association Comments on Pending Free Trade Agreements, the Trans-Pacific Partnership, and Industry Efforts in China

February 23, 2011

Mr. Chairman, Ranking Member, and Members of the Committee, the Securities Industry and Financial Markets Association (SIFMA) appreciates the opportunity to comment in support of the U.S.-Colombia Trade Promotion Agreement (Colombia TPA), the U.S.-Panama Trade Promotion Agreement (Panama TPA), and the U.S.-Korea Free Trade Agreement (KORUS FTA).[1] These agreements represent a key building block of President Obama's efforts to open foreign markets to U.S. workers, business, consumers, and investors, resulting in new opportunities to create U.S. jobs and bolster economic growth. Consequently, we strongly encourage the Administration to renew efforts to pursue international economic engagement on global, regional, and bilateral tracks.

Access to foreign markets and the ability to provide products on a global basis is critical to the continued success of the U.S. financial services industry. The exports of financial services totaled $55.4 billion in 2009, with a surplus of $39 billion - this helps support millions of jobs in the U.S., both within the industry and in supporting sectors. 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.

[1] The Securities Industry and Financial Markets Association (SIFMA) brings together the shared interests of hundreds of securities firms, banks and asset managers. SIFMA's mission is to develop policies and practices which strengthen financial markets and which encourage capital availability, job creation and economic growth while building trust and confidence in the financial industry. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA).

In addressing the specific requests of the Committee, our comments will focus on the following key points: 1) the benefits of the pending agreements to the U.S. economy; 2) the costs of delaying approval of the agreements; 3) the agreements' impact on the financial services industry; 4) the importance of concluding other pending regional and global negotiations; and 5) the need for improved access to the Chinese financial services sector and the development of a level playing field.

Benefits to the American Economy

As the U.S. and global economy navigate through a sustained period of weak economic growth, the pending agreements would provide debt-free stimulus to the American economy by opening new markets for U.S. goods and services. The agreements complement and support the Administration's National Export Initiative that pledges to "remove barriers to trade and open new markets, make sure that trade is free and fair, and work with the world community to promote strong balanced growth worldwide that will benefit everybody."[2] Nearly six million U.S. jobs are supported by goods exports, which is more than 5 percent of private industry jobs.[3] President Obama has stated that a 1 percent increase in exports would create 250,000 jobs.

In the aftermath of the global economic crisis, international trade agreements are an important means of promoting greater cross-border cooperation, transparency, predictability, and accountability in financial services, which is critical to continuing the global recovery. G20 leaders have highlighted the critical role that vibrant financial markets play in providing the credit and capital essential for economic growth,

[2] National Export Initiative, July 2010.
[3] U.S. Korea FTA Business Council Factsheet, http://www.uskoreafta.org/sites/default/files/Benefits-KORUS.pdf, Accessed February 1, 2011.

especially in developing countries. Financial services firms operating in a sound regulatory environment help companies manage risk, raise debt and equity, carry out acquisitions or sales, and help individuals plan and invest for the future. Capital markets facilitate economic growth and development by substantially broadening the range of vehicles for savings and investment, and lowering the cost of capital for businesses and entrepreneurs.

This, in turn, supports economic growth and job creation. Consequently, global investors will benefit from more attractive investment opportunities, exporters will be able to access a more vibrant export market for goods and services, and workers will benefit from increased job opportunities.

SIFMA strongly supports Chairman Camp's statement that Congress should consider all three agreements in the next six months.

KORUS FTA

Notably, U.S. services exports to Korea totaled $12.6 billion in 2009 (most recent data available). Following ratification of the KORUS FTA, U.S. goods exports to Korea are projected to increase by $10 billion to $11 billion annually, according to estimates by the U.S. International Trade Commission. Implementing the agreement would create about 70,000 American jobs.[4]

[4] Report to the President on the National Export Initiative: The Export Promotion Cabinet's Plan for Doubling U.S. Exports in Five Years, http://www.whitehouse.gov/sites/default/files/nei_report_091510_short.pdf, Accessed February 1, 2011.

Colombia and Panama TPAs

Under the Colombia and Panama TPA, more than 80 percent of U.S. consumer and industrial products and more than half of current U.S. farm exports will enter Colombia and Panama duty-free immediately. The agreements will also strengthen intellectual property and investor protections, open services markets, and enhance transparency in government procurement.

Not only will all three agreements be important for our clients in the agriculture, manufacturing and services sector, financing the increased exports and U.S. business activity in all three countries will benefit our industry directly.

Costs of Delay

The United States stands to lose more than 380,000 jobs if it fails to implement its pending trade agreements with Colombia, Panama, and South Korea, while the European Union, Canada, China and other countries move ahead with their own agreements with the those countries, according to a study by the U.S. Chamber of Commerce.[5]

KORUS FTA

To fully reap the benefits of the agreement, the KORUS FTA must be implemented in a timely manner. The European Union, an economy of similar size and composition to the U.S., recently concluded a free-trade agreement with Korea and is scheduled to begin implementing it July 1, 2011. Under the agreement, EU bilateral

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[5] The State of World Trade, U.S. Chamber of Commerce, http://bit.ly/helF74, Accessed February 22, 2011

exports to Korea are expected to increase by as much as 82.6 percent, as barriers to EU-based firms are reduced and eliminated.[6] Korea is also in the process of negotiating trade agreements with Australia and India. According to White House economic official estimates, if competing economies reach and implement their pacts first, the U.S. stands to lose about $30 billion in exports.[7]

Colombia and Panama TPAs

According to the Committee on Ways & Means (Republican Staff) study based on technical assistance provided by the independent, nonpartisan U.S. International Trade Commission[8]:

- If the EU-Colombia Trade Agreement is implemented and the U.S.-Colombia Trade Promotion Agreement (CTPA) is not, U.S. exports to Colombia of:
  - Machinery and equipment would decline by 15 percent, totaling $155 million in lost revenue;
  - Textiles and apparel would decline by 11 percent and 21 percent respectively, combining for nearly $21 million in lost revenue;
- If the Canada-Colombia Trade Agreement is implemented and the U.S.-Colombia Trade Promotion Agreement (CTPA) is not, export and agricultural sectors would collectively experience a 35 percent

[6] The Economic Impact of the Free Trade Agreement (FTA) between the European Union and Korea http://trade.ec.europa.eu/doclib/docs/2010/may/tradoc_146174.pdf, Accessed February 1, 2011.
[7] Elizabeth Williamson, *US Vows New Push in Korean Trade Pact*, The Wall Street Journal, June 25, 2010. http://online.wsj.com/article/SB10001424052748704846004575333303589295326.html, Accessed February 1, 2011.
[8] House Ways and Means Republican Staff Study, May 10, 2010. http://bit.ly/bY20ro , Accessed February 22, 2011. *NOTE Further benefits of the Panama and Colombia agreements can be found in a study provided to the Senate Foreign Relations Committee which was conducted by Sen. Lugar's staff. http://bit.ly/h9I6kC*

reduction in U.S. exports to Colombia, totaling more than $56 million in lost revenue.

Impact on Financial Services Firms

The KORUS FTA will generate significant benefits for U.S. financial services firms and their customers, including:

- 100 percent ownership, as well as the right to establish their corporate form of choice;
- National treatment to foreign financial sector participants and investors on the same basis as domestic investors for regulatory and other purposes;
- The right to supply specific financial services on a cross-border basis, including portfolio management services for investment funds in Korea, and the ability for portfolio managers to manage their portfolios from their regional or head offices outside of Korea;
- Enhanced regulatory transparency. Securities firms in Korea are often confronted with non-tariff barriers in the form of regulatory restrictions and a lack of transparency in the development, implementation and application of regulations. These barriers prevent access in much the same way as tariffs, but unlike tariffs, no quantitative mechanism exists to reduce them;

- The transfer of information into and out of its territory for data processing where such processing is required in the institution's ordinary course of business;
- Strong provisions to protect U.S. investors and U.S. investment against arbitrary, confiscatory and discriminatory government action, including compensation for expropriation, commitments to fair and equitable treatment and most-favored nation treatment, and an objective and independent investor dispute settlement mechanism to resolve individual disputes; and
- In addition to establishing regular bilateral dialogues between regulators, which would enable more effective regulatory cooperation, the financial services agreement also provides provisions protecting each trading partner's sovereignty and regulatory approaches.[9]

The Colombian agreement has been overwhelmingly approved by Colombia's Congress and will serve to benefit the more than 10,000 U.S. companies that export to Colombia, of which about 8,500 are small- and medium-sized firms. The pending agreement with Panama is also a vital piece of the trade puzzle and its ratification would complete the series of bilateral trade agreements currently outstanding. As with the KORUS FTA, the Colombia and Panama agreements provide similar benefits to the financial services industry:

[9] U.S. Korea Business Council Factsheet, http://www.uskoreafta.org/sites/default/files/Financial-Services-KORUS.pdf, Accessed February 1, 2011.

- Full rights to establish or acquire existing financial institutions in Colombia and Panama to supply a complete range of financial services, including:
    - The right to 100 percent ownership;
    - Extensive rights to establish in the judicial form that best suits the business model of financial services firms.
- Non-discriminatory, national treatment for financial services firms, including on the types of services provided to customers;
- Automatic binding of future liberalization through most favored nation (MFN) treatment whereby both Colombia and Panama agree that if they liberalize further in the context of another FTA, then that liberalization is offered automatically to the U.S.; and
- Enhanced regulatory transparency and important regulatory reforms, such as more regularized and transparent regulatory procedures, the adoption of a negative list approach to financial sector regulation, and a regional integration of data processing.

Pursue Regional and Global Agreements

Increasingly important to the future of the U.S. economy and the financial services sector is the conclusion of the Trans-Pacific Partnership (TPP), a regional trade agreement that includes Australia, Brunei, Chile, Malaysia, New Zealand, Peru, Singapore, the United States, and Vietnam. We note U.S. Trade Representative Ambassador Ron Kirk’s comments during the February 9 hearing regarding his intentions of concluding TPP negotiations by the annual Asia-Pacific Economic

Cooperation (APEC) meeting in Hawaii in November 2011. We fully support this effort and believe its conclusion is critical to sustain a dynamic economy and create and retain high-paying, high-quality jobs in the U.S.

SIFMA believes 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 like-minded countries.

In developing a 21st century agreement, the Administration should build on “best of breed” provisions from recent agreements, such as those in the KORUS FTA, rather than simply inventorying provisions from existing FTAs with TPP countries. The ongoing Santiago negotiations represent a key milestone to concluding the TPP agreement and provide a forum to address outstanding regulatory barriers and non-tariff barriers.

A mere recounting of existing agreements would not reflect the global and rapidly changing nature of the financial services sector. We encourage the inclusion of language similar to the 1998 Rwanda Bilateral Investment Treaty (BIT) that allows for an arbitration mechanism to allow investors to work with competent investment authorities for a joint determination on the issue.

While U.S. exports to the Asia-Pacific have increased by 63 percent over the past five years, the U.S. share of trade in the region has declined by 3 percent in favor of U.S. competitors.[10] Last year, China and the 10 Southeast Asian ASEAN nations ushered in the world's third-largest free-trade area. According to the United States Trade Representative, in addition to the ASEAN-China trade deal, there are now 175 preferential trade agreements in force that include Asia-Pacific countries. More are on the way, with an additional 20 agreements awaiting implementation and more than 50 others under negotiation. A recent study forecasts that the U.S. could lose as much as $25 billion in annual exports just from the discriminatory effects of an East Asia Free Trade Area that excludes the U.S. Exclusion from economic opportunities already is becoming evident and such exclusion will cost American jobs.[11]

Finally, we note that the Doha Round has been stalled for more than two years. We encourage Congress and the Administration to work with members of the G20 and other major global trading partners to ensure the successful completion of these negotiations. The G20 finance ministers reaffirmed their commitment to concluding the Doha round in the February 2011 communiqué, pledging also to "refrain from introducing, and oppose protectionist trade actions in all forms."[12]

A recent Peterson Institute for International Economics study projected a boost of between $180 billion and $520 billion annually to global exports. Likewise, the potential GDP gains are significant, estimated between $300 billion and $700 billion annually, and are expected to be well balanced between developed and developing countries.[13]

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[10] USTR Fact Sheet, http://www.ustr.gov/about-us/press-office/fact-sheets/2009/december/economic-opportunities-and-tpp, Accessed February 1, 2011.
[11] Demetrios Marantis, "U.S. Trade Priorities in the Asia-Pacific: TPP and Beyond," January, 2010.
[12] G20 Finance Ministers Communique, February 19, 2011.
[13] "What's on the Table? The Doha Round as of August 2009," http://piie.com/publications/wp/wp09-6.pdf, Accessed February 1, 2011

A Level Playing Field in China

The development and liberalization of the financial services sector in China is essential to help sustain a global economic recovery and allow financial services firms to compete on a level playing field in the world's second largest economy. The industry is currently working through a number of government-sponsored forums, primarily the Strategic and Economic Dialogue, to foster a constructive, sustained dialogue with our Chinese counterparts to resolve these issues.

While China has been slow to provide market access for foreign firms, they continue to expand their global presence. In the past year, the Industrial & Commercial Bank of China has acquired a U.S. broker-dealer, a U.S.-based depository institution, and is expanding its presence in the European Union with branches in Paris, Brussels, and Amsterdam.

China is also striving to create a world-class financial exchange through the implementation of the Shanghai Stock Exchange Strategic Plan. The plan is intended to develop "one of the most influential bourses in the world, boasting a mature stock market, an improved bond market, a highly developed fund market, an abundance of securities derivatives and an increasingly rational investor structure."[14] In February 2011, the Shanghai Stock Exchange and the Brazilian BM&FBovespa signed a Memorandum of Understanding to allow Brazilian companies the right to list on Chinese exchanges.[15]

[14] *Shanghai bourse eyes Asia's top market by 2020*, http://bit.ly/hOeMC8, Accessed February 10, 2011.
[15] Irene Shen, *Shanghai exchange in pact with Brazil bourse*, China Daily, February 18, 2011. http://bit.ly/gBEhSY Accessed February 22, 2011

SIFMA supports full market access and national treatment for financial services firms seeking to establish operations in China. While China has worked to expand their international financial presence, access for foreign firms has not kept pace. Without improved market access, regulatory transparency, and increased qualified domestic institutional investor (QDII) and qualified foreign institutional investors (QFII) quotas, financial services firms will be unable to service their clients' needs in China and unable to compete at a global level.

Underscoring the importance of the globalization of the financial services industry and access to growing markets, Treasury Secretary Timothy Geithner recently said:

> "As developing economies in the most populous countries mature, they will demand more and increasingly sophisticated financial services, the same way they demand cars for their growing middle classes and information technology for their corporations. If that's true, then we should want U.S. banks positioned to compete abroad."[16]

To achieve these aims, more work must be done to liberalize China's financial services sector and allow for the development of a level playing field.

Conclusion

SIFMA believes these trade agreements and market access issues offer Congress and the Administration an opportunity to secure open and fair access to foreign markets for U.S. firms and their clients. To sustain its recovery, the financial services sector must continue to position itself globally to meet the demands of its U.S. and foreign clients.

[16] Noam Scheiber, *The Escape Artist*¸ The New Republic, February 10, 2011. Page 7. http://bit.ly/hnqjsK, Accessed February 15, 2011.

Free-trade agreements and access to growing markets are key components of the global economic recovery. The financial services sector helps to facilitate and support these bilateral 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 pursue free-trade agreements, and engage on other global, regional, and bilateral tracks that enhance U.S. competitiveness abroad and support jobs at home.