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Strengthening the European equivalence framework

The European equivalence framework has come under increased scrutiny in recent times. This is not unexpected, since in the context of the UK withdrawal, the EU has insisted that the equivalence framework is the only possible future framework that preserves both the EU and the UK capacity to adopt their own rules, to ensure a level playing field, and to act in the interests of their financial stability. Why is it so?

Equivalence refers to a process by which the European Union assesses and deems a third country's regulatory and supervisory framework equivalent, which allows it to defer to the third country's regulatory and supervisory framework to grant its entities access to the EU financial services market. Two key elements need to be highlighted. First, the objective of the equivalence framework is not liberalization per se, even though the European Union is a proponent of market openness. It is first to reduce overlaps and facilitate the compliance with regulatory requirements by EU firms that might have exposures to third countries. Second, the equivalence framework applies to all third countries and is not meant to be tailored to a jurisdiction's specific preferences. Consequently, changes to any piece of the equivalence framework might have far-reaching consequences and particular care must be taken when modifying them to avoid unintended consequences.

The EU may review and, when needed, enhance its equivalence rules to ensure they are fit for purpose in the evolving landscape of cross-border services provision of which the EU is part with its trading partners. For instance, certainty is needed that the equivalence criteria are robust enough, and that provisions are in place to ensure that EU authorities have adequate oversight over third country risks.

Within such a review some key characteristics of equivalence regimes should be stressed. Firstly, the definition and implementation of equivalence regimes is a unilateral competence of the European Union. The autonomy of the EU to ultimately grant or withdraw equivalence decisions is not negotiable.

Secondly, reviewing and improving the framework essentially means that the existing equivalence regimes should be reinforced across several dimensions, especially the clarity of their requirements and the monitoring of equivalence decisions.

On the clarity of requirements, the equivalence process should be made even more transparent and predictable. "Equivalence" does not mean "line-by-line alignment". But the EU should be prepared to ensure that outcomes are only deemed equivalent in a

very robust and significant sense. Moreover, strengthening the equivalence framework does not entail creating new equivalence regimes.

On the monitoring function, the EU needs to be able to react with regard to possible evolutions in third-country regulation and supervision. Likewise, the EU should not grant equivalence without an end-limit or a realistic withdrawal framework. This would be contrary to the need for the EU to be able, at any time, to safeguard and protect its financial stability.

Finally, the EU has constantly been willing to engage in close regulatory cooperation. As a matter of fact, the Commission has extensive experience in such regulatory dialogues with third countries. Nevertheless, regulatory cooperation should not hamper the autonomy of rulemaking of the EU. ●