World Future Council

VOICE OF FUTURE GENERATIONS

Suleika Reiners

FINANCIAL MARKET REFORM: STRENGTHENING PUBLIC INTEREST

How Trade Agreements Impede the Creation of Sustainable Financial Markets

IMPRESSUM

Published by: World Future Council Foundation
Hamburg, January 2017
Author: Suleika Reiners
Legal Responsibility for Content: Jakob von Uexküll
Layout: Anja Rohde
Image Credits: title, p. 12, 14, 15, 16, 18, 19, 20, 21, 22, 23: Anja Rohde, p. 4: ThamKC / Shutterstock, p. 5: Stockdonkey / Shutterstock, p. 7: ABB Photo / Shutterstock, p. 8: Anton Foltin / Shutterstock, p. 10: Marisa Estivill / Shutterstock
Print: Druckerei Kaspers GmbH, Konz
Printed on FSC certified paper.

The World Future Council and the author sincerely thank the HÜBNER GmbH & Co. KG for the financial support of this publication.

FINANCIAL MARKET REFORM: STRENGTHENING PUBLIC INTEREST

How Trade Agreements Impede the Creation of Sustainable Financial Markets

Suleika Reiners

Intended for:

Policy Makers & Politicians

Journalists

Businesses

Non-Governmental Organisations

Citizens

Academia

Kai & Raoul

Hamburg/London/Geneva/Beijing, January 2017

Financial institutions and governments are keen to stress that regulation should not be unnecessarily burdensome on the financial sector.

However, the key question must be: how can the public interest be effectively protected and strengthened?

THE AUTHOR

Suleika Reiners studied Economics, Mathematics and Journalism. She has worked for over ten years on financial markets: as a research associate in the German Federal Parliament, in two non-governmental organisations and for a research institute. Prior to that, she worked for an insurance broker. She is a member of Finance Watch.

Contact: Suleika.Reiners@gmx.de
Twitter: @SuleikaReiners

CONTENTS

1 FINANCIAL MARKET REFORM AND THE PUBLIC INTEREST: THE NEED TO CATCH UP

The backlog of financial market reform is severe. Despite the global financial crisis of 2008, the reforms that have since been introduced have disproportionally been insufficient — as illustrated by the following key examples.

Equity — Debt Brakes for Financial Institutions

Canada, the US and Switzerland have debt brakes for banks: banks must finance their business by an equity ratio of at least five per cent relative to their non-risk-weighted total assets *(leverage ratio)*. The remaining 95 per cent can be financed from borrowing. For US banks the minimum equity ratio is six per cent if they benefit from deposit insurance. In the EU a minimum equity ratio of only three per cent is currently being discussed.

This is far too little: it makes banks fragile and entirely contradicts their key responsibility – namely to cushion risk. Banks must be resilient in order to absorb credit risks or market risks such as low-interest periods. Equity mitigates risk whilst overreliance on borrowed capital, which has to be repaid, increases risk. Financial institutions become risk enhancers by, for instance, panic selling during times of shortages *(fire sales),* thereby depressing securities prices. Systemic risks are thus always higher than the sum of individual risks. The often short-term debt, with which the banks finance themselves, increases the bank's fragility even further. Banks whose business models are characterised by an over-reliance on borrowed capital burden the real economy by creating their own risks.

Admati and Hellwig suggest a minimum equity ratio of 20 to 30 per cent, as was the norm decades ago (Admati 2016; Admati and Hellwig 2013). Equity is a simple measure which has the advantage of protecting against a variety of risks simultaneously. If there is sufficient equity, liquidity risks can also be mitigated. Instead of hastily selling securities, the situation can be ridden out until prices improve.

A study by the Bank of England in collaboration with the Bank for International Settlements (BIS) found that financial institutions that have more equity are able to lend more (Miles, Yang and Marcheggiano 2013). Yet higher bank indebtedness does not lead to more investment and growth. Neither does more equity make lending to the real economy any more expensive. The authors advocate a debt brake of ten per cent or – to cushion severe shocks – 20 per cent equity. The study is based on the economic fluctuations of the last 200 years.

The importance in the first instance of a maximum overall debt brake is stressed by Haldane, also Bank of England (Haldane 2012, 10f): it is easily applicable, effective and very difficult to manipulate. Risk-weighted equity can complement the overall leverage ratio as a second step. The BIS has found that risk-weighted equity between banks with the same portfolio differentiated up to eightfold (BIS 2013, 8). Varying business models or accounting methods cannot explain such a grave discrepancy. Banks design their internal models for risk-weighted equity according to their own interest. The BIS seeks to only slightly limit and define the use of internal risk models (BIS 2016). However, the principle concept remains to prioritise risk-weighted equity and internal selfassessment.

In order to increase their equity by a healthy extent, banks can retain their profit or issue new shares. Financial institutions are against such a debt brake. This is because it limits the opportunity to inflate their return on equity by excessive debt encumbrance in the interest of short-term shareholders and as a criterion for bonuses. In order to promote and protect the real economy and the public interest, however, ensuring banks have sufficient equity is an effective policy. It costs the public nothing.

Shadow Banking — Debt brakes for Financial Activities

The Financial Stability Board (FSB) defines shadow banks as all funds apart from differently regulated pension funds. These entities conduct business similar to banks without being banks. They include investment funds, hedge funds, private equity funds, commodity funds and money market funds. In contrast to banks, they neither have deposit guarantees nor a conventional refinancing option through the central bank.

Within the eurozone, shadow banks are already 87 per cent as big as the banking system (Joint Committee of the European Supervisory Authorities 2016, 8). Investment funds have seen a particularly significant expansion: within the eurozone they are worth 10.5 trillion euros (ECB 2015, 50). Their assets have nearly doubled between 2009 and 2015.

To date legally binding debt brakes for shadow banks to make them more stable do not exist. Only in individual cases can financial supervisory authorities demand an increase of a shadow bank's equity ratio.

More important than the size of these actors, however, is their activity. Shadow banking is a key source from which financial institutions finance their debt-laden proprietary trading. Banks, insurers, pension funds and shadow banks are inextricably intertwined through shadow banking activities. The core activity in shadow banking is securities financing transactions: short-term loans within the financial sector that are secured using tradable securities as collateral – whether through securities lending or repurchase agreements (repos).

The European repo market has at least tripled between 2001 and 2015 (International Capital Market Association / ICMA 2016, 6). The 68 European finance groups that participated in a voluntary survey alone totalled an account size of 5.6 trillion euros. The percentage of repos with only a one-day maturity has steadily increased to nearly 25 per cent (ICMA 2016, 36).

The consequences of these excessive securities financing transactions are debt-driven asset price bubbles such as in the property market as well as risks associated with interconnections between financial institutions. The result: more fragility rather than stability and resilience.

In addition, financial institutions re-use the tradable securities multiple times in long chains, re-pledging them as collateral. The more often securities are re-pledged, the more they become a phantom of safety. The illusion of liquidity is constantly reinforced, which increases the risk of pro-cyclical exaggerations. In Canada this practice is completely prohibited. In the US re-pledged securities are devalued *(haircut)* by 40 per cent. With these actions both Canada and the US have applied debt brakes on financial activities in order to shrink extremely debt-driven proprietary trading. In the EU action has so far been primarily limited to data collection.

Food Speculation, Commodity Speculation and High-Frequency Trading — Barriers to Trade Highly Welcome

Whilst trade agreements are about removing barriers to trade, such barriers are necessary to slow down excessive financial trading. Financial markets that are dominated by speculation lead to unpredictable price fluctuations. Sudden price spikes in crude oil, soya and grain occur unrelated to events in the real economy. They are not accounted for by the economic fundamentals of supply and demand that typically oscillate at a much slower rate. In addition, there is a correlation between prices of agricultural goods that are not seasonally related

(UNCTAD 2012). This shows clearly that the market is dominated by speculation strategies.

Price bubbles can lead to hunger and poverty. Furthermore, rural households often do not profit from increasing global market prices. There is no trickle-down effect and many have to purchase more food than they are able to produce (Swinnen, Knops and Van Herck 2013, 14). The original protective function that commodity derivatives offered for farmers, merchants and food companies come under mounting pressure from the speculation-driven markets. Additionally, the cost of food production increases if producers have to insure themselves against speculation-related price fluctuations. Only large businesses – who themselves partake in the lucrative speculation – can profit.

High-frequency trading – transactions executed in milliseconds – is becoming increasingly prominent. It comprises around 40 per cent of equity trading in Europe, 55 per cent in the US and is growing globally (Gerig 2015, 1). Futures trading – exchangetraded unconditional futures transactions – is also heavily impacted by high-frequency trading: in the US up to 38 per cent for agricultural goods and 47 per cent for both energy and metals (Haynes and Roberts 2015, 4).

Despite the damage caused by speculation and the dynamic of high-frequency trading, the political fallout is minimal. Position limits for food and commodity speculation are being discussed in the EU and in the US: setting a maximum percentage that traders are allowed to hold of the overall market for a specific security. Position limits of 25 per cent are being planned; meaning only four traders could still determine an entire market. The EU is anticipating that financial supervisory authorities of its member states will even permit a deviation of up to 15 per cent. That would put the upper position limit at a generous 40 per cent.

Yet, even narrow and exception-free position limits would not mitigate the risk of herd behaviour – individual parties mimicking the actions of each other. That is why minimum holding periods and a broad-based financial transaction tax are important in order to curb short-term and price distorting speculation. This applies to food and commodity speculation as well as to speculation in general such as with currencies. Minimum holding periods would be more effective than tick sizes, which are planned in the EU and specify that computers only react at a certain price spike. To protect from systemic risk the minimum holding periods would not be allowed to be self-regulated and hence at the mercy of the competition of stock exchanges and trading platforms. However, even a legally binding minimum holding period of half a minute as suggested by the European Parliament is as yet not planned.

Currently a joint financial transaction tax is being discussed by a group of ten EU countries. The tax is, however, now almost exclusively viewed as a potential source of income. To additionally fulfil the steering effect of decelerating trading it would have to be broad-based, rather than exempting government bonds and certain derivatives. The tax rate would also need to be sufficiently high to reflect the aim of reducing excessive trading. If these two elements were absent, even if a financial transaction tax were implemented it is unlikely the original key intended objective of a steering effect would be realised.

Precautionary Principle for Financial Markets — a Paradigm Shift

The 1992 Rio Declaration on Environment and Development of states, *"Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing […] measures […]"* (UN 1992, Principle 15).

This precautionary principle, which is familiar to the EU in relation to the environment and public health, does not exist for financial markets. However, as financial markets can and do cause serious harm, such a principle is urgently required.

Even without a financial crisis, the day-to-day operation of financial markets can cause grave damage. This can even include negative external effects on on other states. Unpredictable fluctuations of food and commodity prices, large short-term capital flows as well as the use of financial instruments to manipulate balance sheets and evade tax all have significant harmful impacts.

Financial markets also affect human rights: they have effects on food prices while the fallout from financial crises can have wide-ranging impacts on health and living conditions. Between 2008 and 2010 in OECD countries there were 260,000 additional deaths caused by cancer (Maruthappu and Watkins 2016). This can be traced back to crisis-time cuts to health care provision. In the US the number of heart attacks significantly increased between October 2008 and April 2009 (Fiuzat 2010). More suicides were recorded in the US between 2008 and 2010 – 1,580 more annually – than between 1999 and 2007 (Reeves 2012). This harm comes on top of the economic costs of rescue packages and the collapse of growth. All of this clearly indicates the need for the precautionary principle to be applied in financial markets.

With a precautionary principle complex financial instruments could be tested for their potential systemic risks before being released into the public realm, similar to risk management processes applied to new medication. The liability would – comparable to the pharmaceutical industry – lie with the financial institutions. For 26 years, between 1974 and 2000 the US had an entry test for exchange-traded commodity derivatives (Omarova 2012, 37–47). With the expansion of over-the-counter trading this policy was unfortunately abolished rather than being expanded. Many financial instruments are invented to circumvent regulation and are purposefully non-transparent (Allen and Yago 2010, 22 and 42). Financial regulators and supervisors are constantly on the back foot to keep up with financial innovation. In contrast, there have hardly been any – substantially – new financial instruments created since grain derivatives were traded in Mesopotamia a few thousand years ago (Persaud 2016, 161).

A paradigm shift where financial supervisory authorities had the mandate for applying a precautionary principle would avoid degrading the financial system. The burden of proof for the safety of the financial innovation would lie with the financial institutions. Before being released new financial instruments could be tied to a set of conditions, in particular the avoidance of systemic risks.

For this purpose it is necessary for decision makers to shift towards a public interest mind-set rather than merely serving the financial sector. This value decision is often forgotten in part because financial supervision is often biased towards viewing the financial sector as its customers (Jenkins 2012, X). With the precautionary principle, if there is any doubt, the protection of the public interest is always paramount.

Lobbying — Strengthening Public Interest Representation

Lobbying dominated by single interests in the financial sector is a major obstacle to effective financial market reform as well as being a systemic risk. Going forward the priority must surely be the protection of the public interest through the promotion of financial stability and resilience and the prevention of tax avoidance. It is also important to note that financial institutions represent their individual commercial interests and are not necessarily champions of a stable financial system. They often individually profit from the instability the financial system generates, for example, in derivatives trading. Financial sector representation is given additional clout due to the fact that nonfinancial businesses – in particular large corporations – often have the same interests due to their own significant involvement in financial trade.

Regulatory capture – in this case when policy makers advance the commercial concerns of financial sector special interests – is reinforced by cognitive capture through strongly held and widespread financial narratives. Moreover, there is the tradition that the criterion for an efficient financial market is efficiency for the financial actors themselves, which trumps public interest. Added to this tradition is the technically outdated narrative that financial markets should be supported in order to spur growth. This myth is conveniently utilised in times of recession. The illusion of regulatory muscle is fed by governments who do not want to look like they have lost a battle. Thus, even ineffective policies are heralded as a success.

Part of the finance industry's dominance stems from a glaring imbalance in spending power: the European financial sector spends 123 million euros per annum on lobbying. This is over 30 times more than non-governmental organisations, consumer groups and trade unions put together (Corporate Europe Observatory, Austrian Federal Chamber of Labour and Austrian Trade Union Confederation 2014, 14). Individual US banks spend millions on lobbying in the EU alone: in 2014 JP Morgan Chase spent over six million dollars and Morgan Stanley nearly five million dollars (Robinson and Braithwaite 2015).

This imbalance could be addressed if for each monetary unit that firms spend on special interest lobbying, they pay one monetary unit into a levy fund for public interest lobbying. Beneficiaries could include independent research, journalism and nongovernmental organisations.

Especially with an often technical topic such as financial market reform it is important that politicians and regulators are able to draw on competent and independent expertise. It should be standard practice that politicians and regulators are able to commission independent studies instead of having to defer to the financial sector. In addition, journalists and non-governmental organisations can provide valuable public outreach and campaign work. In this way even trade agreements have in recent years entered the public's awareness. Politics is strongly influenced by what is deemed important in the public eye.

Continuity in effective public interest representation must also be strengthened. The financial sector represents their interest through all policy and regulatory stages – from setting the agenda to the technical discussions right through to implementation. This is a significant commitment that not all actors are able to sign up to equally. For example there are frequently delays in the political process which, for non-governmental organisations, can often mean project funding runs out and important lobbying is either interrupted or aborted completely.

Regulatory bodies, media and non-governmental organisations require competent and well-paid staff. Better financial endowments contribute to their professionalism – policy makers and regulators must be able to take seriously what stakeholders bring to the table.

A culture change in the government ministries and public agencies is also needed. Single interest representation should be met with a healthy scepticism whilst public interest representation should be valued more highly – not the other way around as is often currently the case. It is not the derided costs of regulating the financial sector that are a problem, but rather the high costs associated with insufficient measures for the public good.

2 TOO MUCH FINANCIAL MARKET: UNPRODUCTIVE RISKS

In proprietary trading, financial markets exclusively concern themselves with trade with each other. This increases their fragility and thus diminishes their ability to mitigate external risks created by the real economy. The financial market also causes risks for the real economy: it has increasingly laden itself with internal and unproductive risks. In addition, there are new systemic risks as shown in the following examples.

Financial Markets and Growth — the Peak Has Passed

The financial system stopped spurring more real economic growth a long time ago. The volume of assets in the financial sector is over ten times the value of real goods and services (Bain & Company 2012, 3). Foreign exchange trading is particularly extreme with around five trillion US-dollars traded per day (BIS 2016, 9). Four days' worth of foreign exchange trading could finance an entire year's worth of global trade of goods and services – around 20 trillion US-dollars in 2015 (WTO 2016).

The role of debt has changed. Loans primarily flood financial markets themselves. Rather than financing productive investment and real economic growth, loans are prioritised for property trading and trading in existing securities. An assessment in 46 countries between 1990 and 2011 substantiates the trend (Bezemer, Grydaki and Zhang 2014). Other studies come to similar conclusions (amongst others Jordá, Schularick and Taylor 2014; Taylor 2012; Turner 2013), as well as a study from the IMF and two studies by the BIS (Arcand, Berkes and Panizza 2012; Cecchetti and Kharroubi 2015 and 2012). It is lending without real value creation, without a productive counter value.

Financial business that seeks wealth creation and profit beyond the real economy could be viewed as legitimate if no external costs to the public good were created. This, however, often proves impossible. Studies have shown that a bloated financial sector prevents productive investment and real economic growth, because loans increasingly flow into asset price bubbles.

Equity Substitutes — New Systemic Risks I

The Financial Stability Board (FSB) recommends that global systemically important banks maintain a *Total Loss-Absorbing Capacity (TLAC)*. This means holding securities such as convertible bonds that can automatically transform into equity in a crisis. This is said to create a process of bail-in rather than using tax money to bail-out.

However, this is not only an inappropriate replacement for equity, but also gives rise to new risks. As soon as there is a crisis and the securities need to be transformed into equity, a huge loss of value to these securities across banks can be expected (Persaud 2016, 161). Consequently these losses could drag down multiple financial institutions.

European Capital Markets Union — New Systemic Risks II

For the legislative period 2014–2019 the European Commission has chosen a European capital markets union as its poster child. In particular the securitisation business – the trade of securitised loans released from banks – is to be promoted.

Even non-transparent forms of securitisation are planned to be treated preferentially – for example through lower equity requirements. This is the case for tranching: a structured securitisation, which creates high value securities out of bad loans *(financial engineering)*. The loans are securitised into differently yielding tranches where defaults are initially caught by the securities in the lower tranches. Much like a hurricane, however, strong losses also badly hit the upper tranches. Whereas a hurricane does not occur everywhere at the same time, these losses do correlate (Hache 2014, 42).

For individual financial institutions these transactions are lucrative. Securitisations are fodder for proprietary trading and – especially with complexity – generate profit through fees. For the financial system as a whole it causes systemic risks. The key problem of too much lending within the financial sector is further exacerbated (Reiners 2015).

The European Commission and the financial sector happily suggest that securitisations would be advantageous for small and medium-sized enterprises (SMEs). The ECB, however, has demonstrated the opposite: the main problem of SMEs in the eurozone is finding sufficient customers (ECB 2016, 10). In most countries SMEs are offered more loans and equity than they require (ECB 2016, 20). In countries such as Greece where the situation is different, development banks are much better equipped than investors with high yield expectations. Securitisations of SME loans are disproportionally expensive. In both the US and the EU they do depend on publicly financed guarantees.

3 RAISING STANDARDS IN THE FINANCIAL MARKETS: METHODS AND ROUTES

The enormous need for catch up in financial market reform and the existing and emerging risks being faced clearly require higher standards. The Financial Stability Board (FSB), some pioneering national policy examples and the need to strengthen host country supervision all offer valuable opportunities.

Democratising the G20 and the Financial Stability Board and Cooperating with the UN

The global nature of financial markets and the international effects of cross-border capital flows require that regulation and supervision be globally coordinated. Triggered by the global financial and economic crisis, the Group of 20 systemically important states (G20) upgraded the previous Financial Stability Forum 2009 to the FSB (G20 2009). Alongside its coordination and observing functions, the FSB now has a mandate to make recommendations (FSB 2012). To date this has included recommendations on shadow banking and on systemically important financial institutions as well as principles for compensation practices. The role of the FSB is to support reforms in member and non-member states.

The FSB is a 'club of clubs'. Alongside states, its members include international organisations (BIS, IMF/World Bank and OECD) and six standard-setting institutions (including the Basel Committee on Banking Supervision, the International Association of Insurance Supervisors and the International Organisation of Securities Commissions).

After the 1997 Asian financial crisis the G7 countries had, by 1999, expanded to G20 and founded the Financial Stability Forum. They wanted to include emerging economies and do justice to the monitoring and governance of financial trade that had grown steadily in complexity (Viola 2014, 116). Only with the advent of the financial crisis of 2008 did the G20 fully step out of the shadows. Up until that point finance ministers and central bank presidents were hardly ever personally present at G20 summits (Mayntz 2015, 38). Nowadays a G20 summit meeting for finance ministries and central banks occurs alongside a summit meeting for the heads of state – a change reflecting the increase in political importance and the need for greater decision-making power.

The FSB deals on behalf of its members. One problem here is the tight links with the G20 and the lack of cooperation with the UN. So called systemically important states – a criterion that is not even clearly defined – are exclusively permitted as G20 members, leaving the majority of the Global South excluded. This despite the fact that global financial markets and – insufficient – reforms often particularly affect these countries. As a step towards more inclusiveness, non-members are now permitted to attend G20 summits as guests. The FSB has also arranged six regional groups to represent the interests of these countries and regions (America, Asia, Europe, Commonwealth of Independent States, Middle East and North Africa, Sub-Saharan Africa).

Greater cooperation between the G20/FSB and the UN would increase the democratic legitimacy of the G20 and the FSB as well as contributing valuable expertise. The advantages of working in small fora would be preserved. Like the G20, the UN developed recommendations in the wake of the financial crisis (Stiglitz Commission 2010). Practical proposals for such cooperation already exist (Heinbecker 2011). The G20 summit, still maintaining its annually rotating presidency could be held at the UN in New York to coincide with the UN General Debate each year in September.

Promoting Pioneering National Policies

International recommendations and standards are almost always the result of compromise and affected by lowest common denominator realities, meaning they are mostly weak. It must therefore be self-evident that countries can move above and beyond these international standards. As political situations and power balances vary considerably from country to country, it can even be seen as a key component of democracy.

International recommendations and standards should therefore be understood as minimum rather than maximum standards. If the scope and leeway of national action is expanded in this way, pioneering policies are created. The five per cent debt brake for banks in Canada, the US and Switzerland offers a tentatively positive example. These countries have gone above the Basel III accord, the international equity adequacy standard that stipulates a debt brake of at least three per cent equity. Their move provides a positive practical example that other countries could viably replicate. A further example is higher standards for financial consumer protection in the UK and the Netherlands (Kastner 2014, 1318). Financial institutions in these two countries had even advocated spreading their higher standards – such as those regarding information requirements for insurers – within the EU in order to create a level-playing field.

Host Country Supervision *versus* 'Mutual Recognition' and Home Country Supervision

The EU has taken the principle of mutual recognition of national standards particularly far in the course of European integration. The scope for member states to move beyond common minimum standards is legally restricted. Financial instruments that are permitted in one member state are permitted in all other member states without further testing *(European passport).* It was also conceded that home country supervision has priority over host country supervision. The aim of this rule is to lower 'regulatory costs' for businesses instead of internalising the external costs for the public good.

This was particularly damaging for Eastern European countries (Pistor 2009), whose financial markets are strongly impacted by the presence and external capital flows of the financial institutions of countries such as Germany and Austria. The home country supervision of international financial institutions is however concentrated on the financial stability of the home market. The particularities of the heavy influence of these institutions in other countries are grossly neglected. Even if the EU has slightly improved EU-wide supervision as a reaction to the financial crisis, the dangers of home country supervision and mutual recognition are evident.

In contrast in 2001 the US had already agreed that banks, regardless of their country of origin, are under US supervision provided their market share is five per cent minimum (Lichtenstein 2006). The US's higher equity standards also apply to foreign banks. Moreover, foreign banks are obliged to merge their US subsidiaries into a holding company if they total 50 billion US-dollars or more (FSB 2014, 5). These bank holdings are subject to their own equity requirements. The reason for this is that subsidiaries of banks, such as Barclays or Deutsche Bank, are often hugely under-capitalised in relation to the parent company (Johnson and Schott 2013, 4).

Other countries such as Australia, India, Indonesia, Mexico and Singapore also have special policies for foreign banks (FSB 2014, 11f). The aim is to reflect the systemic relevance that these banks have in the host country – which is sometimes in contrast to the home country situation (UNCTAD 2015, 110).

These examples show that host country supervision can be necessary to maintain standards that are higher than those of another country and the international minimum consensus. Mutual recognition, on the other hand, can thwart good policies if the quality of standards differs under different circumstances. It can mean a competitive disadvantage for domestic businesses and trigger 'standard dumping'. The equivalence of standards is often hard to ascertain and subject to bias. Equivalence assessments and available data are mostly concentrated on the effectiveness of rules on a national level instead of focussing on cross-border capital movements (Verdier 2011, 95). But this is exactly what is important.

The protection of your own domestic standards is inherently democratic. It also serves the public good including protecting the taxpayer. What is vilified as discrimination of foreign businesses in contrast to domestic businesses can actually be a legitimate difference of treatment due to different circumstances. Demands such as multiple registration requirements for businesses are not unnecessary private costs. They are part of a necessary internalisation of external costs that these businesses generate.

Praise of Diversity *versus* Fear of Divergence

The diversity between countries, cultures and legal systems is not only a trivial fact, but also a good thing. Diversity mitigates cross-border interconnectivity risks in the financial markets and prevents pro-cyclical exaggerations (Warwick Commission 2009). A fragmentation of financial markets can thus be projected (FSB 2014, 14). Diversified financial markets are more resistant than a global monoculture (Haldane 2009, 17–19). They are part of a development-friendly financial market architecture.

The financial sector likes to make claim about the alleged dangers of divergence (Atlantic Council, TheCityUK and Thomson Reuters 2013; Deutsche Bank 2014). A regulatory monoculture saves on the costs of navigating various rules or possible profit setbacks resulting from higher standards. However, efficiency for the financial sector is not an end in itself. This is particularly the case since financial markets cause such serious risks. Furthermore, the problem is not a lack of financial trading, but rather too much of it. Financial trading needs to be slowed down instead of being ratcheted up with further self-defined efficiency.

The financial sector also contradicts itself: it complains about regulatory divergence yet contributes actively to its continued existence by being an avid supporter of selfregulation. This applies to internal risk models of equity calculations as well as to stock exchanges making their own decisions on minimum holding periods for securities. This, however, does not create useful diversity but rather encourages non-committal behaviour and competition for the lowest standards. This race for the lowest standards regrettably occurs between countries as well as between companies within a country. Far from being champions of positive convergence, financial sector representatives have been raising concerns of a convergence towards higher standards, for example with the higher US equity standards encroaching into the EU (Madariaga College of Europe Foundation 2014, 4; RegTechFS 2014).

The route towards higher standards is cooperative decentralisation (Helleiner 2014, 174–177). The silver bullet is international minimum standards – in an ideal scenario these standards are high – combined with opportunities for leeway at the national level in favour of standards that are above the international minimum consensus. Instead of legally limiting the national scope for higher standards, strengthened host country supervision can contribute to maintaining and disseminating these standards.

4 TRADE AGREEMENTS: BRAKES ON REFORM

Financial services are part of bilateral and multilateral trade agreements including the 1994 'General Agreement on Trade in Services' (GATS) of the World Trade Organisation (WTO). In many respects the more recent agreements go much further than the GATS in their restrictions of regulatory autonomy as well as in the number of countries that make commitments.

TTIP, CETA, TPP, TiSA & Co — Public Interest As a Barrier to Trade and Commercial Interest

The planned 'Transatlantic Trade and Investment Partnership' (TTIP) that started being negotiated between the EU and the US 2011, would constitute the first bilateral trade agreement between the two largest financial centres. Both have numerous bilateral agreements with other countries, both formalised and still pending. These include the EU agreements with South Korea (in effect since 2011) and Singapore (negotiations concluded in 2014 and up for approval) as well as the 'Comprehensive Economic and Trade Agreement' (CETA) with Canada (negotiations concluded in 2016 and up for approval) and the US agreements with South Korea and Panama (both in effect since 2012).

The 'Trans-Pacific Partnership' (TPP) between the US and eleven additional states encompasses a huge geographical area: Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam (negotiations concluded in 2015 and up for approval). The planned 'Trade in Services Agreement' (TiSA) has seen ongoing negotiations since 2012. Alongside the EU and the US there are 21 further states involved in this agreement: Australia, Canada, Chile, China, Columbia, Costa Rica, Hong Kong, Iceland, Israel, Japan, Liechtenstein, Mexico, New Zealand, Norway, Pakistan, Panama, Peru, South Korea, Switzerland, Taiwan and Turkey.

All these agreements have one thing in common: public interest oriented rules for the financial sector are viewed as potential barriers to trade and commercial interest. Breaking down these perceived barriers is the priority. Instead of pushing for higher standards in line with the need for positive progress in financial market reform, exactly the opposite is happening.

Regulatory Ice Age — Setting the Course for Stagnating and Falling Standards

The possibilities for states to adopt public interest oriented measures – self-evident one would assume – are formally included in all agreements *(prudential carve-out).* However, this is often drastically restricted. The mutilation of regulatory autonomy already began with the GATS of 1994 which reads, *"Where such [prudential] measures do not conform with the provisions of the Agreement, they shall not be used as a means of avoiding the Member's commitments or obligations under the Agreement."* (Annex on Financial Services, 2a, 308). This is also what is included in the TPP (Ch. 11, Art. 11.11, 11) and in the TiSA draft (Annex [X], Art. X.16, 14). The sentence is as contradictory as it is vague and is open to legal uncertainty.

In 2012 Ecuador asked the WTO for examples of prudential measures that are permitted according to the GATS (WTO 2012, 1f). It did not receive any. The response was merely that protectionist abuse should be avoided (Barbee and Lester 2014, 963–965).

CETA also restricts political leeway with regard to public interest measures (Art. 13.16, 103 and Annex 13-B, 8d, 386). It states that prudential measures shall not be *"so severe in light of its purpose that it is manifestly disproportionate to the attainment of its objective."* The emphasis is clear and pointing in the wrong direction. The proportionality principle means precisely the opposite: financial market reforms are mostly significantly under-proportional and consequently miss their stated goals.

Further brakes on reform can be found in each agreement. The TTIP draft excels in its obstructionism by stating, *"These [prudential] measures shall not be more burdensome than necessary to achieve their aim"* (Art. 52, 38). The same clause can already be found in the EU's bilateral agreements with South Korea (Art. 7.38, 37) and Singapore (Art. 8.50, 31). In addition, a key goal such as financial stability is not defined either nationally or internationally (Allen 2014). Lack of clarity around goals makes reforms even more assailable, and this clause makes taking the steps that are necessary even more of a challenge. The EU is pushing for every new financial instrument to be automatically permitted in the country of the contracting party (Art. 55, 39). What is considered inside the EU as a *European passport* for financial instruments, is also intended to count for the TTIP.

The TPP includes a so-called *minimum standard of treatment* for the investments of international businesses (Ch. 9, Art. 9.6, 7f). This favours international over domestic businesses – in other words: a discrimination of domestic businesses. The principle has thus been contentious in international law for decades. The TPP marks the first time the clause has been applied in a trade agreement to financial services (Gelpern 2016, 95). International financial services companies can use the clause to protest against any new regulations that are judged to lessen their profits.

In essence in the TiSA all prudential measures that limit the expansion of activities of international financial services companies on the market of a contracting country are at stake (Annex [X], Art. X.14, 10f). In particular market opportunities and benefits that have been enjoyed to date shall not be limited. Furthermore, with the *standstill clause* in the TiSA negotiations, the EU demands to prohibit any reversal of the degree of commercial liberalisation that was approved at the conclusion of the agreement (EU proposal, Art. 4, 5). Any conditions, limitations and qualifications of commitments will then no longer be adaptable to raise standards for the public good.

Despite possible systemic risks, unpredictable developments or changing political power relations, these commitments are planned to be irreversible. Thankfully the resistance from other countries means that the EU is unlikely to be able to push through with the standstill clause (European Parliament 2016, 18f).

The points, norms and direction of travel that are fostered in these agreements are clear: insufficient standards are cemented instead of strengthening the mandate of regulation and supervision and complementing it with a precautionary principle. Legislators, regulators and supervisors will find themselves on the defensive if such restrictive clauses are written into international law. This applies even without special courts for investors – proceedings in ordinary courts are expensive, too. For countries in the Global South compensation demands and court and attorney fees can be especially burdensome. The ever-present threat of legal claims will set the scene for a regulatory ice age.

'Regulatory Cooperation' and 'Better Regulation'— Euphemisms for a Trend of Falling Standards

Alongside international financial services companies the EU is also particularly keen for financial services to be included in trade agreements (European Parliament 2014, 9). The EU member states are as a whole the largest exporters and importers of financial services globally. The comparatively – if only slightly – higher

US standards, for example for banks, are a thorn in the side for the financial sector and for the EU. One of the ambitions of the agreement is to lower the US standards (Jones and Macartney 2016). The European Commission claims to not want to negotiate the actual implementation of standards in the TTIP – but rather do it in parallel (European Commission 2014, 4). Yet, the US remain reluctant and are rejecting the process of 'regulatory cooperation' with which the EU aims to install a formal decision making procedure beyond parliaments.

Through 'regulatory cooperation' the EU wants to anchor into international law efforts to check EU and US rules for *"unnecessary barriers to trade"* (European Commission 2014, 3 & 2015, 1). This is meant to be the case for planned as well as existing laws. Consequently, standards could also drop further below their already low current level. This is particularly relevant because the European Commission is in denial about the need for catch up in its financial market reforms and instead celebrates its standards as successes.

Irrespective of trade agreements there is a tendency to view reforms one-sidedly from the point of view of commercial costs. In 2014 the European Commission made 'Better Regulation' its top priority: future as well as existing regulations have to go through 'fitness checks' such as cost-benefit analyses. The term 'cost/s' comes up 86 times in the 'Better Regulation' guidelines, more than twice as often as 'benefit/s' which appears 42 times (European Commission 2015). The term 'precaution' is not mentioned once. Thankfully over 60 organisations have come together to form a 'Better Regulation Watchdog' in order to strengthen public interest representation. This watchdog includes the Brussels-based organisation Finance Watch as well as trade union associations and Greenpeace.

Increasing Systemic Risks, Tax Avoidance, Tax Evasion and Money Laundering

A double danger develops when standards stagnate or drop while systemic risks increase at the same time. TTIP, CETA, TPP, TiSA & Co: all are pushing for a strong liberalisation in favour of the financial sector. Requests for market access always include a prohibition for countries to limit the value or number of financial transactions (TTIP draft, Art. 4, 6; CETA, Art. 13.6, 97f; TPP, Ch. 11, Art. 11.5, 7f; TiSA, Core Text, Art. I-3, 5). That will still remain the case when economic needs tests suggest the opposite.

This is linked to increasing systemic risks, because liberalisation for the financial sector often leads to procyclical exaggerations, particularly because short-term profit interests and rapid capital shifts define the sector. Banking and currency crises are often the consequence of liberalisations. This is the finding of a study of 76 currency and 26 banking crises between 1970 and 1995 and the Asian financial crisis of 1997 (Kaminsky and Reinhart 1999).

In addition, an impact assessment of existing agreements found that the inclusion of financial services in trade agreements significantly contribute to tax avoidance, tax evasion and money laundering (Ioannides 2016). The 2016 Panama papers scandal shows this to an especially large extent. In close cooperation with banks, a Panamanian law firm was able to register and administer over 200,000 shell companies for businesses.

Reform brakes, increasing risks through the financial sector and possible tax losses: all these trends are a striking contradiction to the UN Sustainable Development Goals (SDGs) agreed upon by the international community in 2015 and to be implemented by 2030.

5 UN SUSTAINABLE DEVELOPMENT GOALS AND TRADE AGREEMENTS: CONTRADICTIONS

Financial market stability is a crucial requirement to enable economic and social sustainability. The 17 UN Sustainable Development Goals (SDGs) are also about financial markets. Goal 10.5 states the following (UN 2015, Goal 10.5, 21), *"Improve the regulation and monitoring of global financial markets and institutions and strengthen the implementation of such regulations."* On food speculation Goal 2c reads (UN 2015, Goal 2c, 16), *"Adopt measures to ensure the proper functioning of food commodity markets and their derivatives […], in order to help limit extreme food price volatility."*

Economically and Socially Sustainable Financial Markets As a Global Duty

The SDGs are in part about improving financial market reforms. Trade agreements, on the other hand, herald a regulatory ice age. In addition, low standards for the financial sector in the EU and the US have negative consequences on other countries. Even without a crisis this is the case in the speculation of food, commodities and currencies and through tax avoidance assisted by complex financial instruments.

Including the devastating consequences of ineffective measures, the EU is damaging both the SDGs and the Lisbon Treaty. It reads (EU 2012, Art. 208, 141), *"The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries."* The OECD also subscribes to the principle of 'policy coherence for development' (OECD 2016).

The external effects on other countries make sustainable financial markets even more of a global duty. Whether cross-border movements of capital boom or bust strongly depends on the interest rates in the US and in the EU. Low interest rates allow capital inflows into emerging economies to rapidly increase, because of higher interest rates and yield expectations. If the US or the EU announces interest rate increases there are a massive return flows of capital.

High capital inflows can create asset price bubbles and through the appreciation of the national currency impede the exports of a country by making them more expensive. In turn, rapid capital outflows and the consequent currency depreciation make imports and debt servicing in foreign currencies more expensive. This all happens without the economic conditions in emerging economies having changed at all.

Currency fluctuations cannot be balanced out by support purchases of a country's own currency financed by foreign exchange reserves of central banks. Moreover, whilst there is a lack of money for important investments in healthcare, education and infrastructure, money is lying fallow in foreign exchange reserves.

Capital Flow Management to Become a Matter of Course

To manage the fluctuations of cross-border capital flows, taxation or direct quantitative limits for capital inflows and outflows can be raised. Many countries – including Brazil, Costa Rica, India, Indonesia, Peru, the Philippines, South Korea, Taiwan and Uruguay – have done this in response to the consequences of the financial crisis and the interest rate policies of the US and the EU (Gallagher 2015, 1f).

Banks can limit their capital outflow to customers with a three-month notice period for savings accounts. Yet it would cause uproar if a country did this regarding cross-border capital flows.

Even though smoothing the zig-zag pattern of exchange rate volatility would constitute a big improvement for trade in the real economy any attempt to do this is still absent in trade agreements (Priewe 2015). After all, volatility offers a lucrative business for the financial sector.

Capital flow volatility is an obstacle to development for countries. This should make the possibility of capital flow management at the national level self-evident. The need is even more urgent as to date there is neither internationally coordinated regulation of capital flows nor an internationally coordinated monetary policy. If countries or regions, in particular the US or the EU, choose to cushion the external damage of their interest rate policies on other countries it is up to them. The US central bank only permits countries with destabilising dollar outflow access to dollars if it is in the interest of the US. Alongside Mexico and Brazil this applied primarily to industrial countries as well as – for the first time in 2010 – Singapore and South Korea (Chey 2012). The request from Indonesia was rejected.

Nevertheless, trade agreements severely restrict capital flow management. Capital flow management measures will only be permitted under exceptional circumstances: in serious difficulties or the threat thereof,

when absolutely necessary and even then only temporarily (CETA, Art. 28.4, 212f; TTIP, EU proposal, Art. 15, 11f; TPP, Art. 29.3, 2–5; TiSA, Art. I-8, 9f).

According to CETA and TTIP, capital flow management measures are not allowed to exceed six months. With TPP the limit lies at 18 months, which – again only under exceptional circumstances and by request – can be extended by a year. Direct quantitative limits always require extra justification. Chile and Malaysia had, in particular, pushed for capital flow management in the TPP negotiations (Gallagher 2015, 187f). In addition, US representatives had turned to US Trade Representative Froman in a number of letters (including from the US Congress in 2015) and over 250 economists had issued a statement (Economists Issue Statement on Capital Controls and Trade Treaties 2011). In the TiSA the deadline ends *"as the situation improves"*, while the TPP and TiSA stress that measures *"shall avoid unnecessary damage to […] commercial interests."*

These restrictions, which can also be found in numerous bilateral trade agreements are damaging and presumptuous. Capital flow management must be possible at any time in order to adapt to the constant fluctuations of international capital flows. Capital flow management is a precondition for an autonomous monetary policy. Since if, by contrast, a country has to stem capital outflows through its monetary policy alone and increases its interest rate, it can make loans more expensive and slow investments.

Promoting Financial Market Reform instead of Obstructing It with International Law

Economically and socially sustainable financial markets will remain unattainable if trade agreements block reforms. If the current reform fatigue and the preference of commercial interests over public interests are written into trade agreements in international law, it will be an additional obstacle to progress. Unfair trade will continue and grow stronger. Falling and stagnating standards are a strong development barrier that impacts the pressing need for catch up in financial market reform. The continuing reform of the financial markets must therefore become a political focal point in order for the SDGs to be achieved.

REFERENCES

1 Financial Market Reform and the Public Interest: the Need to Catch Up

Admati, Anat (2016). The Missed Opportunity and Challenge of Capital Regulation. In: National Institute Economic Review, No. 235, 4–14.

Admati, Anat and Martin Hellwig (2013). The Bankers' New Clothes. What's Wrong with Banking and What to Do about It. Princeton University Press.

Allen, Franklin and Glenn Yago (2010). Financing the Future. Market-Based Innovations for Growth. New Jersey (US).

BIS (2016). Reducing Variation in Credit Risk-Weighted Assets–Constraints on the Use of Internal Model Approaches. Consultative Document. Basel Committee on Banking Supervision.
http://www.bis.org/bcbs/publ/d362.pdf

BIS (2013). Regulatory Consistency Assessment Programme (RCAP)–Analysis of Risk-Weighted Assets for Market Risk. Basel Committee on Banking Supervision.
http://www.bis.org/publ/bcbs240.pdf

Corporate Europe Observatory, Austrian Federal Chamber of Labour and Austrian Trade Union Confederation (2014). The Fire Power of the Financial Lobby. A Survey of the Size of the Financial Lobby at the EU Level.
https://corporateeurope.org/sites/default/files/attachments/financial_lobby_report.pdf

ECB (2015). Report on Financial Structures.
https://www.ecb.europa.eu/pub/pdf/other/reportonfinancialstructures201510.en.pdf

Fiuzat, Mona et al (2010). United States Stock Market Performance and Acute Myocardial Infarction Rates in 2008–2009. In: The American Journal of Cardiology, Vol. 106, No. 11, 1545–1549.

Gerig, Austin (2015). High-Frequency Trading Synchronizes Prices in Financial Markets. Securities and Exchange Commission, Division of Economic and Risk Analysis, Working Paper Series.
https://www.sec.gov/dera/staff-papers/working-papers/dera-wp-hft-synchronizes.pdf

Haldane, Andrew G. (2012). The Dog and the Frisbee. Speech.
http://www.bis.org/review/r120905a.pdf

Haynes, Richard and John S. Roberts (2015). Automated Trading in Futures Markets.
http://www.cftc.gov/idc/groups/public/@economicanalysis/documents/file/oce_automatedtrading.pdf

International Capital Market Association/ICMA (2016). European Repo Market Survey, No. 30, February.
http://www.icmagroup.org/Regulatory-Policy-and-Market-Practice/repo-and-collateral-markets/repo-market-surveys/latest-survey

Jenkins, Robert (2012). Regulators, Financial Industry, and the Problem of Regulatory Capture. In: Making Good Financial Regulation. Towards a Policy Response to Regulatory Capture, Stefano Pagliari (ed.), Foreword, IX–XI.
http://www.stefanopagliari.net/making_good_financial_regul.pdf

Joint Committee of the European Supervisory Authorities (2016). Report on Risks and Vulnerabilities in the EU Financial System.
https://www.eba.europa.eu/documents/10180/1315397/JC+Risks+and+Vulnerabilities+Report+(JC+2016+17)%20-+Spring+2016.pdf/ba1189dd-3725-4eb8-924d-827b0248248d

Maruthappu, Mahiben, Johnathan Watkins et al (2016). Economic Downturns, Universal Health Coverage, and Cancer Mortality in High-Income and Middle-Income Countries, 1990–2010: a Longitudinal Analysis. In: The Lancet, Vol. 388, No. 10045, 684–695.

Miles, David, Jing Yang and Gilberto Marcheggiano (2013). Optimal Bank Capital. In: The Economic Journal, Vol. 123, No. 567, 1–37.
http://ssrn.com/abstract=2225652

Omarova, Saule T. (2012). License to Deal: Mandatory Approval of Complex Financial Products. In: Washington University Law Review, Vol. 90.
http://ssrn.com/abstract=1996755

Persaud, Avinash D. (2016). A Ticking Time Bomb: TLAC and Other Attempts to Privatise Bank Bail-Outs. In: Butterworths Journal of International Banking and Financial Law, March, 160–163.
https://piie.com/system/files/documents/persaud201603.pdf

Reeves, Aaron et al (2012). Increase in State Suicide Rates in the USA during Economic Recession. In: The Lancet, Vol. 380, No. 9856, 1813f.

Robinson, Duncan and Tom Braithwaite (2015). Goldman Sachs' Reported Spending on EU Lobbying Rises 14-fold. In: Financial Times, 28 April.

Swinnen, Johan, Louise Knops and Kristine Van Herck (2013). Food Price Volatility and EU Policies. United Nations University, WIDER Working Paper, No. 2013/032.
https://www.wider.unu.edu/sites/default/files/WP2013-032.pdf

UNCTAD (2012). The Synchronized and Long-Lasting Structural Change on Commodity Markets: Evidence from High Frequency Data. Discussion Papers, No. 208.
http://unctad.org/en/PublicationsLibrary/osgdp2012d2_en.pdf

UN (1992). Rio Declaration on Environment and Development.
http://www.unep.org/documents.multilingual/default.asp?documentid=78&articleid=1163

2 Too Much Financial Market: Unproductive Risks

Arcand, Jean-Louis, Enrico Berkes and Ugo Panizza (2012). Too Much Finance? IMF Working Paper.
https://www.imf.org/external/pubs/ft/wp/2012/wp12161.pdf

Bain & Company (2012). A World Awash in Money. Capital Trends Through 2020.
http://www.bain.com/Images/BAIN_REPORT_A_world_awash_in_money.pdf

Bezemer, Dirk, Maria Grydaki and Lu Zhang (2014). Is Financial Development Bad for Growth? Research Institute SOM, University of Groningen.
http://www.rug.nl/research/portal/files/19400479/14016_GEM_def.pdf!null

BIS (2016). Triennial Central Bank Survey.
http://www.bis.org/publ/rpfx16fx.pdf

Cecchetti, Stephen G. and Enisse Kharroubi (2015). Why Does Financial Sector Growth Crowd out Real Economic Growth? BIS Working Papers, No. 490.
http://www.bis.org/publ/work490.pdf

Cecchetti, Stephen G. and Enisse Kharroubi (2012). Reassessing the Impact of Finance on Growth. BIS Working Papers, No. 381.
http://www.bis.org/publ/work381.pdf

ECB (2016). Survey on the Access to Finance of Enterprises in the Euro Area. June.
https://www.ecb.europa.eu/pub/pdf/other/accesstofinancesmallmediumsizedenterprises201606.en.pdf?c96d449e601cbe6c87d2e67d54e68c70

Hache, Frédéric (2014). A Missed Opportunity to Revive 'Boring' Finance? A Position Paper on the Long Term Financing Initiative, Good Securitisation and Securities Financing. Finance Watch.

Jordá, Òscar, Moritz Schularick and Alan M. Taylor (2014). The Great Mortgaging: Housing Finance, Crises, and Business Cycles. Federal Reserve Bank of San Francisco, Working Paper Series.
http://www.frbsf.org/economic-research/files/wp2014-23.pdf

Persaud, Avinash D. (2016). A Ticking Time Bomb: TLAC and Other Attempts to Privatise Bank Bail-Outs. In: Butterworths Journal of International Banking and Financial Law, March, 160–163.
https://piie.com/system/files/documents/persaud201603.pdf

Reiners, Suleika (2015). Key Problem Is Too Much Lending in Financial Sector. In: Financial Times, Letter to the Editor, 19 February.

Taylor, Alan M. (2012). The Great Leveraging. University of Virginia.
http://www.nber.org/papers/w18290.pdf

Turner, Adair (2013). Too Much Debt, Financial System Stability, and Wider Economic Impacts. In: Shadow Banking within and across National Borders, Stijn Claessens et al (eds.), 17–55.

WTO (2016). World Trade Statistics.
https://www.wto.org/english/res_e/statis_e/wts2016_e/wts16_chap2_e.htm

3 Raising Standards in the Financial Markets: Methods and Routes

Atlantic Council, TheCityUK and Thomson Reuters (2013). The Danger of Divergence: Transatlantic Financial Reform & the G20 Agenda.
http://www.atlanticcouncil.org/images/publications/Danger_of_Divergence_Transatlantic_Financial_Reform_1-22.pdf

Deutsche Bank (2014). Transatlantic Consistency? Financial Regulation, the G20 and the TTIP.
https://www.dbresearch.com/PROD/DBR_INTERNET_ENPROD/PROD0000000000336924/Transatlantic+consistency%3F+Financial+regulation,+the+G20+and+the+TTIP.pdf

FSB (2014). Structural Banking Reforms. Cross-Border Consistencies and Global Financial Stability Implications. Report to G20 Leaders for the November 2014 Summit.
http://www.fsb.org/wp-content/uploads/r_141027.pdf

FSB (2012). Charter of the Financial Stability Board.
http://www.fsb.org/wp-content/uploads/FSB-Charter-with-revised-Annex-FINAL.pdf

G20 (2009). Declaration on Strengthening the Financial System. London Summit, Global Plan Annex.
http://www.g20.utoronto.ca/2009/2009ifi.html

Haldane, Andrew G. (2009). Rethinking the Financial Network. Speech, Bank of England.
http://www.bankofengland.co.uk/archive/Documents/historicpubs/speeches/2009/speech386.pdf

Heinbecker, Paul (2011). The United Nations and the G20: Synergy or Dissonance? In: Global Leadership in Transition. Making the G20 More Effective and Responsive, Colin I. Bradford and Wonhyuk Lim (eds.), Brookings Institution Press, 236–246.
http://www.heinbecker.ca/Writing/15June2011-Chapter-Brookings%20contribution%20.pdf

Helleiner, Eric (2014). The Status Quo Crisis. Global Financial Governance after the 2008 Meltdown. Oxford University Press.

Johnson, Simon and Jeffrey J. Schott (2013). Financial Services in the Transatlantic Trade and Investment Partnership. Peterson Institute for International Economics.
https://piie.com/publications/pb/pb13-26.pdf

Kastner, Lisa (2014). 'Much Ado about Nothing?' Transnational Civil Society, Consumer Protection and Financial Regulatory Reform. In: Review of International Political Economy, Vol. 21, No. 6, 1313–1345.

Lichtenstein, Cynthia C. (2006). The Fed's New Model of Supervision for 'Large Complex Banking Organizations': Coordinated Risk-Based Supervision of Financial Multinationals for International Financial Stability. In: American Journal of Law & Medicine, No. 8, 283–300.
http://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=1130&context=lsfp

Madariaga College of Europe Foundation (2014). Financial Services and the TTIP: Why Is the EU Insisting? Madariaga Report.
http://www.madariaga.be/images/madariagareports/2014-feb-28%20-%20financial%20services%20and%20the%20ttip.pdf

Mayntz, Renate (2015). International Institutions in the Process of Financial Market Regulatory Reform. In: Negotiated Reform. The Multilevel Governance of Financial Regulation, Renate Mayntz (ed.), Max Planck Institute for the Study of Societies, 37–63.

Pistor, Katharina (2009). Into the Void: Governing Finance in Central & Eastern Europe. Columbia University School of Law, Working Paper No. 355.
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1476889

RegTechFS (2014). Fed Locks Down Capital Standards: How Will Europe Respond?
https://regtechfs.com/fed-locks-down-capital-standards-how-will-europe-respond

Stiglitz Commission (2010). The Stiglitz Report. Reforming the International Monetary and Financial Systems in the Wake of the Global Crisis.

UNCTAD (2015). Trade and Development Report. Making the International Financial Architecture Work for Development.
http://unctad.org/en/PublicationsLibrary/tdr2015_en.pdf

Verdier, Pierre-Hugues (2011). Mutual Recognition in International Finance. In: Harvard International Law Journal, Vol. 52, No. 1, 55–108.
http://www.harvardilj.org/wp-content/uploads/2011/02/HILJ_52-1_Verdier1.pdf

Viola, Lora Anne (2014). The G-20 and Global Financial Regulation. In: Handbook of Global Economic Governance, Manuela Moschella and Catherine Weaver (eds.), Routledge International Handbooks, 115–128.

Warwick Commission (2009). The Warwick Commission on International Financial Reform: in Praise of Unlevel Playing Fields. University of Warwick.
http://www2.warwick.ac.uk/research/warwickcommission/financialreform/report/uw_warcomm_intfinreform_09.pdf

4 Trade Agreements: Brakes on Reform

Allen, Hilary J. (2014). What Is 'Financial Stability'? The Need for Some Common Language in International Financial Regulation. Suffolk University Law School.
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2484070

Barbee, Inu and Simon Lester (2014). Financial Services in the TTIP: Making the Prudential Exception Work.
https://www.law.georgetown.edu/academics/law-journals/gjil/recent/upload/zsx00414000953.PDF

European Commission (2016). Transatlantic Trade and Investment Partnership. Services and Investment Offer of the European Union. Financial Services. 14 July.
http://trade.ec.europa.eu/doclib/docs/2016/july/tradoc_154794.pdf

European Commission (2015). Better Regulation Guidelines. Commission Staff Working Document.
http://ec.europa.eu/smart-regulation/guidelines/docs/swd_br_guidelines_en.pdf

European Commission (2014). EU-US Transatlantic Trade and Investment Partnership (TTIP). Cooperation on Financial Services Regulation. 27 January.
http://trade.ec.europa.eu/doclib/docs/2014/january/tradoc_152101.pdf

European Parliament (2016). Financial Services Liberalisation and TiSA: Implications for EU Free Trade Agreements. Study for the Committee on International Trade.
http://www.europarl.europa.eu/RegData/etudes/STUD/2016/578019/EXPO_STU(2016)578019_EN.pdf

European Parliament (2014). Financial Services in EU Trade Agreements. Study for the ECON Committee.
http://www.europarl.europa.eu/RegData/etudes/STUD/2014/536300/IPOL_STU(2014)536300_EN.pdf

Gelpern, Anna (2016). Financial Services. In: Assessing the Trans-Pacific Partnership, Vol. 1: Market Access and Sectoral Issues. Peterson Institute for International Economics, 91–100.
https://piie.com/publications/briefings/piieb16-1.pdf

Ioannides, Isabelle (2016). The Inclusion of Financial Services in EU Free Trade and Association Agreements: Effects on Money Laundering, Tax Evasion and Avoidance. Ex-Post Impact Assessment, European Parliamentary Research Service, European Parliament, Brussels.
http://ssrn.com/abstract=2803426

Jones, Erik and Huw Macartney (2016). TTIP and the 'Finance Exception': Venueshopping and the Breakdown of Financial Regulatory Coordination. In: Journal of Banking Regulation, Vol. 17, No. 1/2, 4–20.

Kaminsky, Graciela L. and Carmen M. Reinhart (1999). The Twin Crises: The Causes of Banking and Balance-of-Payments Problems.
http://home.gwu.edu/~graciela/HOME-PAGE/RESEARCH-WORK/WORKING-PAPERS/twin-crises.pdf

WTO (2012). Report of the Meeting Held on 19 March 2012. Committee on Trade in Financial Services, S/Fin/M/72.

5 UN Sustainable Development Goals and Trade Agreements: Contradictions

Chey, Hyoung-kyu (2012). Why Did the US Federal Reserve Unprecedentedly Offer Swap Lines to Emerging Market Economies during the Global Financial Crisis? Can We Expect Them Again in the Future? National Graduate Institute for Policy Studies.
http://www.grips.ac.jp/r-center/wp-content/uploads/11-18.pdf

Economists Issue Statement on Capital Controls and Trade Treaties (2011). Letter to Hillary Clinton, Timothy Geithner and Ron Kirk, 31 January.
http://www.ase.tufts.edu/gdae/policy_research/CapCtrlsLetter.html

EU (2012). The Treaty of the Functioning of the European Union (consolidated version).
http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN

Gallagher, Kevin P. (2015). Ruling Capital. Emerging Markets and the Reregulation of Cross-Border Finance. Cornell University.

OECD (2016). Better Policies for Sustainable Development 2016. A New Framework for Policy Coherence.
http://www.oecd.org/development/better-policies-for-sustainable-development-2016-9789264256996-en.htm

Priewe, Jan (2015). TTIP or Transatlantic Currency Cooperation? Friedrich-Ebert-Stiftung.
http://library.fes.de/pdf-files/wiso/11263.pdf

UN (2015). Transforming Our World: the 2030 Agenda for Sustainable Development.
http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E

US Congress / House of Representatives (2015). Letter to the United States Trade Representative Michael Froman, 20 July.
http://democrats.financialservices.house.gov/uploadedfiles/07.20.2015_letter_to_ustr_re_capital_controls_and_the_tpp_july_20_2015_final_signed_copy.pdf

Trade Agreements and Draft Proposals

CETA, 93–107: Chapter 13 – Financial Services; 212f: Chapter 28 – Exceptions, Art. 28.4.; 385–387: Annex 13-B.
http://trade.ec.europa.eu/doclib/docs/2014/september/tradoc_152806.pdf

EU-Singapore Free Trade Agreement, 28–33: Sub-Section 6 – Financial Services.
http://trade.ec.europa.eu/doclib/docs/2013/september/tradoc_151743.pdf

EU-South Korea Free Trade Agreement, 36–39: Sub-Section E – Financial Services.
http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2011:127:FULL&from=EN

GATS, 308–311: Annex on Financial Services & 421–424: Understanding on Commitments in Financial Services.
https://www.wto.org/english/docs_e/legal_e/26-gats.pdf
https://www.wto.org/english/tratop_e/serv_e/21-fin_e.htm

TiSA, Annex [X] – Financial Services. Draft (25 September 2015) & Core Text (April 2015) & EU Proposal for an Annex on Financial Services (July 2013).
https://wikileaks.org/tisa/document/20150925_Annex-on-Financial-Services/20150925_Annex-on-Financial-Services.pdf
https://wikileaks.org/tisa/document/20150424_Core-Text/20150424_Core-Text.pdf
http://trade.ec.europa.eu/doclib/docs/2014/july/tradoc_152688.pdf

TPP, Chapter 9 – Investment & Chapter 11 – Financial Services & Chapter 29 – Exceptions and General Provisions.
https://ustr.gov/sites/default/files/TPP-Final-Text-Investment.pdf
https://ustr.gov/sites/default/files/TPP-Final-Text-Financial-Services.pdf
https://ustr.gov/sites/default/files/TPP-Final-Text-Exceptions-and-General-Provisions.pdf

TTIP Negotiations. Modified EU Draft Proposal on Trade in Services, Investment and Electronic Commerce (2 July 2013), 6: Art. 4 – Market Access & 36–40: Section VI – Financial Services & 11f: Art. 15 – Transfer.
http://eu-secretdeals.info/upload/EU-Investment-Text-TTIP-v_July2nd-2013_v1.pdf

World Future Council

VOICE OF FUTURE GENERATIONS

The World Future Council researches, identifies and spreads policy solutions that contribute to sustainable development and advises and supports decision-makers in their concrete implementation. The WFC Head Office is located in Hamburg with further offices in London, Geneva and Beijing. As a charitable foundation, the WFC relies on private and institutional donations to fund its work.

WFC Head Office
Lilienstraße 5–9
20095 Hamburg, Germany
+49 40 3070914-0
info@worldfuturecouncil.org

www.worldfuturecouncil.org

World Future Council

VOICE OF FUTURE GENERATIONS