ENGAGE CHINA COALITION: Market Access for U.S. Financial Services Providers in China

November 26, 2018

The Honorable Steven T. Mnuchin
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Mnuchin,

Engage China thanks the Trump administration for its commitment to seeking meaningful structural reforms in China, focusing in particular on addressing China's market access barriers. We also recognize and value President Trump's personal focus on ensuring fairness and reciprocity for U.S. companies. It is vital that China establish a level playing field for both domestic and foreign firms across the *whole* of its economy.

We write to reiterate the urgency of securing full market access for U.S. and all other non-Chinese banking, securities, fund management and insurance companies doing business in China by, for example:

- Comprehensively levelling the playing field for Joint Ventures;
- Equalizing the treatment of foreign insurers in terms of processing license applications;
- Leveling up the list of futures products and local custody services open to foreign participation;
- Tackling other impediments such as requiring more than one founding shareholder in insurance asset management and capital requirements in custody banking.

More detail is included on the need for action on these issues below.

We also request that a clear timeline for taking forward these commitments comes out of President Trump's meeting with President Xi on the margins of the upcoming G20 Summit.

Financial Services Trade and Investment Between the U.S. and China

The U.S.-based financial services industry is the most competitive in the world and persistently records a trade surplus, including with China. Yet, despite strong Chinese economic growth and the U.S. trade surplus of nearly $3 billion in financial services trade with China, U.S. financial services exports to China make up only a 3.5 percent share of U.S. global financial services exports. That compares with almost 8.5 percent of U.S. goods exports destined for China. Further, despite being among the world's most successful and innovative firms, foreign financial institutions typically account for less than 10 percent market share in their respective industries, and U.S. firms even less. More needs to be done to enable the global financial services industry to compete fairly in China.

That imbalance extends in terms of investment and ownership of operations in China. U.S. financial services providers based in China supply around $2 billion in services per annum to users there. Despite China having the world's second largest economy, that $2 billion compares with $127 billion provided by U.S. firms in Europe, around $10 billion to Mexico and Canada and $7 billion to Brazil. The share of the financial sector accounted for by foreign ownership is tiny; for example, foreign banks are estimated to represent less than two per cent of China's banking network.

Ensuring that U.S. financial institutions conducting business in China are granted equal treatment with their domestic Chinese competitors is one of Engage China's top priorities. Specifically, we remain focused on removing the long-standing ownership and equity caps that limit U.S. financial services firms' ability to grow and be competitive in China. As you have correctly highlighted in the past, China should be a market of tremendous opportunity for both exports and investment by U.S. companies, including financial services. Indeed, financial services touches on nearly every aspect of the U.S. export economy as we support our clients in their efforts to expand. As such, ensuring that U.S. financial services firms have full access to China will not only help our companies grow, but also facilitate greater market access for other U.S. exports into the Chinese market. In this way, we will be able to further support the Trump administration's mission of promoting the growth of U.S. exports abroad and reduce the U.S.' trade deficit with China.

Developments and the Need for Further Progress

Following a November 2017 announcement that China would lift the restrictions on foreign ownership of financial services companies, the China Securities Regulatory Commission (CSRC) released a draft consultation for public comment which outlined, with more specificity, what steps China would take to begin opening the securities sector. We are encouraged by some of the progress that China is making towards this goal. In addition, the Chinese Insurance and Banking Regulatory Commission (CBIRC) recently set out draft rules that would continue to edge the financial services market further towards liberalization including by permitting foreign banks to underwrite government bonds and lowering the threshold of deposits that non-Chinese institutions can hold; and in April 2018 the cap on foreign ownership of fund management companies was raised to 51 per cent with the intention of permitting 100 per cent by April 2021.

However, while these are welcome developments, there are outstanding concerns and a comprehensive market opening cannot be fully realized as other barriers along the path persist. The barriers that prevent full market participation by our member firms run much deeper than just numerical equity caps. Examples of other issues that the Chinese authorities should address include:

- At present, existing securities Joint Ventures (JVs) can apply for two new licenses every six months while new JVs can only apply for four in one tranche. These licensing conditions should be equalized.

- The recent CSRC consultation proposing rules for how firms can increase their JV ownership also includes a proposed financial requirement that controlling shareholders must have net assets of RMB 100 billion (around 14 billion USD). For U.S. firms that use an Asia-based entity as a JV shareholder, very few would be able to meet that requirement. No other jurisdiction, including the U.S., imposes such a requirement.

- Chinese-invested insurers, even start-ups, continue to receive multiple branch licenses in a single application. Conversely, foreign-invested competitors are rarely approved for more than two branch licenses per year, regardless of their financial strength and the past compliance history of their foreign parent company.

- The list of eligible futures products open to foreign participation should be expanded beyond crude oil and iron ore contracts to include all major commodities, interest rate and foreign exchange products.

- An RMB two billion capital commitment as well as three year waiting period requirements are still applied to U.S. custody banks in China. These should be eliminated, and branches of foreign banks should be allowed to provide the full range of local custody services. The application for fund custody license should comply with international practice.

- Insurance asset management companies are required to have at least two founding shareholders which means that foreign-invested insurers must continue to partner with another company for asset management even after the ownership cap on life insurance is lifted.

This list is not exhaustive. We also remain focused on the emergence of national policies that serve as significant market access barriers and provide unfair advantages to domestic competition, not only for foreign financial services institutions, but nearly all foreign companies seeking to operate in China. For example, China's recent cybersecurity efforts have added further obstacles to the creation of a level playing field by enforcing data localization and prohibiting international data transfer by U.S. and other non-Chinese institutions. Limitations on the free flow of data have serious implications for global firms, the end-users they serve, and economic growth more generally. Data localization not only impairs financial services firms' ability to serve their customers and the economy, but also negatively impacts overall data security and creates inefficiencies.

Conclusion

Fully integrating financial services into the U.S. relationship with China better equips financial services providers to meet the needs of global businesses in the rest of the economy. There is a historic opportunity here and we believe the Trump administration has the potential and ability to deliver on it.

Respectfully,

Kenneth E. Bentsen, Jr.
Chair, Engage China Coalition
President and CEO, SIFMA

The Engage China Coalition:
American Bankers Association
American Council of Life Insurers
American Insurance Association
The Council of Insurance Agents and Brokers
The Financial Services Forum
The Futures Industry Association
Insured Retirement Institute
Investment Company Institute
Property Casualty Insurers Association of America
The Securities Industry and Financial Markets Association

Cc:

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