



## TAFTA: Bankers' Backdoor Plan to Roll Back Wall Street Reform

The new financial regulations designed to prevent banks from gambling with our money and creating another crisis. The safety standards on which we rely daily for our food, medicines and cars. The energy and climate policies needed to save our planet. These are policies that should be determined in open, democratic venues where we have a say. But a group of the largest U.S. and European banks and corporations want to rewrite these safeguards behind closed doors. For over a decade, they have pushed for a new U.S. “trade” deal with Europe – [the Trans-Atlantic Free Trade Agreement \(TAFTA\)](#), which corporate proponents have tried to rebrand as the Transatlantic Trade and Investment Partnership (TTIP) – a deal that would roll back consumer protections on both sides of the Atlantic. European Union (EU) and U.S. negotiators launched TAFTA negotiations in July 2013 and plan to finish the sweeping deal by 2014.

A “trade” deal only in name, TAFTA would require the United States and EU to conform domestic financial laws and regulations, climate policies, food and product safety standards, data privacy protections and other non-trade policies to TAFTA rules. This could include obligations for products and services that do not meet domestic standards to be allowed under processes called “equivalence” and “mutual recognition,” or obligations to actually alter domestic U.S. and EU policies to conform to existing international standards or to new trans-Atlantic standards negotiated to be more convenient to business. These constraints on policy space would be binding. Failure to comply with TAFTA rules could result in trade sanctions. The pact could also newly empower foreign corporations, including the banks of the world’s largest financial centers, to directly challenge public interest policies and demand taxpayer compensation in extrajudicial tribunals.

### The EU/U.S. TAFTA Agenda: Deregulation in Disguise

U.S. and EU TAFTA negotiators, advised by Wall Street banks and EU financial conglomerates, have made clear their intent to use TAFTA to roll back the financial reforms enacted in the wake of the global financial crisis. EU negotiators have [explicitly called](#) for new “[disciplines](#)” on financial regulations to be included in TAFTA. They have listed the Volcker Rule, state-level regulation of insurance and the Federal Reserve’s proposed rules for foreign banks as particular targets for regulatory rollback. U.S. negotiators have proposed regulatory disciplines under another name: “market access” rules that simply [ban many common forms of financial regulation](#), even if applied to domestic and foreign firms equally. The U.S. plan to include such restrictions in TAFTA conflicts with:

- Initiatives to ban various risky financial services or products, such as certain derivatives
- Efforts to put size limitations on banks so that they do not become “too big to fail”
- Proposals to “firewall” different financial services (a policy tool used to limit the spread of risk across sectors, as Glass-Steagall did between commercial and investment banking)

The pact’s rules could also ban financial transaction taxes (e.g. the proposed “Robin Hood tax”) or capital controls, [endorsed](#) by the International Monetary Fund, to curb financial speculation’s destructive impact.

### The Bankers' TAFTA Agenda: Deregulation without Disguise

The European and U.S. banks, in their [formal demands](#) issued to TAFTA negotiators, have been remarkably candid in naming the specific U.S. and EU financial regulations that they would like to see dismantled via

TAFTA. Here's a sampling of the regulatory rollbacks the banks hope for in TAFTA, as stated by the banks themselves:

- **Exempt banks from regulations:** The U.S. Securities Industry and Financial Markets Association – a conglomerate of Wall Street firms like AIG, Citigroup, JP Morgan, Bank of America and Goldman Sachs – suggests that via TAFTA, U.S. and EU governments could simply “[agree to exempt financial services firms of the other party from certain aspects of its regulatory regime](#)” with respect to certain transactions, such as those with sophisticated investors.” That is, so long as foreign banks are dealing with “sophisticated” investors, regulators need not bother with regulating the banks.
- **Weaken the Volcker Rule:** The Association of German Banks has made clear it has “quite a number of...[concerns regarding the on-going implementation of the Dodd-Frank Act](#) (DFA) by relevant US authorities,” referring to the Wall Street reform enacted in the wake of the financial crisis. The banking conglomerate includes Deutsche Bank, a German megabank that [received hundreds of billions of dollars from the U.S. Federal Reserve](#) in exchange for mortgage-backed securities in the aftermath of the crisis. The German banking behemoth particularly takes issue with the Volcker Rule, designed to keep banks from taking risky bets with federally-insured funds for their own profit, calling the centerpiece of Wall Street reform “much too extraterritorially burdensome for non-US banks.”
- **Outsource risk regulation:** The European Services Forum, a banking conglomerate including Germany's Deutsche Bank, has stated that TAFTA should [prevent U.S. regulators from placing tougher regulations on too-big-to-fail foreign banks](#) operating in the United States unless foreign government entities do so first: “we think that it should not be possible for a company operating globally to be designated as a systemically important financial institution (SIFI) in a foreign jurisdiction but not in its domiciliary jurisdiction.”
- **Remove state-level leverage limits:** Insurance Europe, a collection of Europe's largest insurance firms, has stated its hope that TAFTA can be used to “[remove](#)” [collateral requirements](#) enacted by U.S. states to keep insurance corporations from taking on risky degrees of leverage: “Insurance Europe would like to see equal treatment for financially secure well regulated reinsures regardless of their place of domicile with statutory collateral requirements removed.”

### **Investor Privileges: Empowering Banks' Deregulatory Push**

U.S. and EU corporations and officials have called for TAFTA to grant foreign banks the power to skirt domestic courts, drag the U.S. and EU governments before extrajudicial tribunals, and directly challenge domestic financial safeguards as violations of TAFTA-created foreign investor “rights.” The tribunals, comprised of three private attorneys, would be authorized to order unlimited taxpayer compensation for financial regulations perceived as undermining banks' “expected future profits.” Such [extreme “investor-state” rules](#) have already been included in U.S. “free trade” agreements, forcing taxpayers to pay corporations more than \$400 million for toxics bans, land-use rules, regulatory permits, water and timber policies and more. Just under U.S. pacts, more than \$14 billion remains pending in corporate claims against medicine patent policies, pollution cleanup requirements, climate and energy laws, and other public interest policies. The EU is proposing an even more radical version of these rules for TAFTA, further empowering banks' efforts to return to the deregulatory era that led to financial crisis.

### **Fast Track: Railroad Democracy to Railroad Safeguards?**

How could a deal like TAFTA get past Congress? With a democracy-undermining procedure known as [Fast Track](#) – an extreme and rarely-used maneuver that empowered executive branch negotiators, advised by large corporations, to ram through unfair “trade” deals by unilaterally negotiating and signing the deals before sending them to Congress for an expedited, no-amendments, limited-debate vote. As a candidate, President Obama said he would replace this expired, anti-democratic process. But now he is asking Congress to grant him Fast Track's extraordinary authority – in part to sidestep growing public and congressional concern about pacts like TAFTA. We must ensure that Fast Track never again takes effect and instead create an open, inclusive process for negotiating and enacting trade agreements in the public interest.

**For more information, visit [stop-tafta.org](http://stop-tafta.org)**