

What Role for Non-Discrimination and Prudential Standards in International Financial Law?

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Abstract

While principles of non-discrimination amount to key constitutional principles in trade regulation, most-favoured nation (MFN) and national treatment are virtually absent in financial regulation except for the General Agreement on Trade in Services (GATS). The current GATS financial services framework aims at disciplining regulation and contains few, if any, incentives for the development of sound regulatory standards and institutions. Future amendments should create a framework allowing for the negotiation needed for adopting, incorporating, or referring to appropriate prudential standards and other common regulations for the financial industry within the GATS. Incentives should be created to develop and implement such standards as a matter of binding and enforceable obligations. The principles of MFN and national treatment will play an important role in providing level playing fields. Recourse to graduation allows different levels of economic and social development of World Trade Organization Members to be taken into account in shaping common financial regulations.

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