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The Way Forward on Capital Market Union: Adjusting MiFIR to the Challenges of Today and Tomorrow

EPFSF Webinar on "Review of the Markets in Financial Instruments Regulation (MiFIR): Promoting a true and efficient single market for trading"

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It is a pleasure to take floor during this seminar on the targeted review of MIFID and MIFIR.

My gratitude to both Othmar and Wim for bringing all of us here for this common reflection on how to accelerate building Capital Market Union.

I see this proposal as part of our efforts to make CMU a reality.

And to ensure that Europe will not be overlooked by international investment anymore.

We all agree that we need more transparent and less fragmented European capital markets, we need well-functioning level playing field across Europe, we need global investment flowing into Europe because the investors see our markets attractive and competitive.

Adjusting MIFID and MIFIR to the challenges of today and tomorrow is badly needed.

We need to empower investors, in particular small and retail ones, by enabling access to market data necessary to invest more easily and by making EU market infrastructures more robust and competitive.

I trust that the changes proposed will increase market liquidity, facilitate access to funding from capital markets and boost efficient single market for trading.

The proposal from the Commission puts on our plate changes to the current framework that can overcome the fatigue around the CMU, fill existing gaps and produce simple, understandable and deliverable market environment.

I would like to thank Tilman Lueder and his colleagues for their effort and ambition.

This is a proposal with a strong technical dimension but also requiring political choices.

If we all play it right, it might bring the needed dynamism to the European capital market.

We know that market fragmentation creates today liquidity and trade execution risks; it creates uncertainty and reduces the attractiveness of EU capital markets.

Legislators and regulators are aware that the failure of MiFID 2 to create conditions for a consolidated tape to emerge implies that the expectations today are high.

We cannot fail.

And as much as possible we should do it together, legislators, regulators, national authorities, all market participants, using our competences and responsibilities to achieve the best result.

We must as well ensure conditions for the right balance between all market players so that they all can contribute to a bigger pie and benefit from its growth.

Supported by my assistant, Nicolo Bertoncello I have been extensively engaging with a broad range of stakeholders. We had around 30 meetings with representatives of capital market players and supervisory authorities.

This shows that the MiFIR review has fostered a great deal of interest, and proves that the stakes are high.

I am grateful to all of you from the buy and sell side, larger and smaller investors, asset managers, for reaching out to us.

We talked about all elements of the proposal, about the amount of transparency needed, beneficial harmonization, need to look at different markets, see different venues.

I feel like we have been through major impact assessment exercise.

And today I would briefly mention some of them.

A few comments on the Consolidated Tape.

Most stakeholders seem to welcome the introduction of the European Consolidated Tape.

The common goal should be that the tape is commercially viable, reflecting market specificities and the use cases, benefitting not only the end investors, but also those markets that have now less visibility.

The tape should contribute to attractiveness of the whole EU capital market.

As you can imagine the conversations revealed as well specific concerns of market participants regarding in particular:

- First, the speed at which the consolidated post-trade data should be broadcasted by the Consolidated Tape Provider.

  Here, the considerations are either in favour of delayed data - an option which would not create huge additional costs for the tape providers - or close to real time.

  In the latter case, the argument is that the use cases will be better satisfied.

- Second, the compensation for data contributors i.e. the revenue sharing model. In this case, the question is how to ensure the commercial viability of the tape, while creating a level playing field and ensuring that smaller stock exchanges do not go out of business.

- Third, the scope of the tape, and in particular whether it should include - or aim to include - pre-trade data as well as post-trade data.

  This is also linked to issues of the quality and the standards of data reporting.

- And fourth, the timelines for the introduction of the tape, including across the different asset classes.

  Here also the supervision of the tape was discussed, as well as the tender process for the CTP, which as ESMA suggests may be too ambitious at the moment.

These are all important concerns.

In general, I would say that we share the view that the Consolidated Tape, when rightly done, can lead to more attractive European capital markets, and if we make the pie grow, everyone will benefit.

A few comments on market structure and transparency.

Today market participants are expected to adhere to highly complex transparency rules.

I could hear that streamlining the rules on waivers and deferrals would benefit the entire investment community, it would increase the availability of trading data and decrease execution costs.

It would also result in more price discovery in the Union.

At the same time, however, you made me aware of the need to ensure that certain participants in the markets do not have to face excessively restrictive rules that may jeopardise their activities or significantly alter the way in which they manage risks.

I must say in this context that one of my key takeaways from the meetings was that we should strive to find the right balance between different participants in the capital markets and their functions.

I have always been in favor of legislative proportionality.

One more element of the proposal that I want to mention and that has been at the centre of some discussions is the proposed ban on Payments for Order Flows.

While there was no impact assessment on this issue, several studies calling for contradictory solutions were brought to my attention pointing to different characteristics of this instrument in the context of retail investment and best execution.

Payment for order flow is not a widespread practice in the EU, but we all know that it is a factor in some EU jurisdictions.

There are several options to explore here.

Between the option of a ban, as proposed by the Commission, and the maintenance of the status quo, as proposed by some stakeholders, there is also an option of more regulated approach.

And before concluding, a few words on international competitiveness of European capital market in the context of the proposal.

In our conversations, we looked together into how the US market and tapes work, in particular at the experience of Trace.

It was interesting for me to realize how many years it normally takes to reach the stage of a fully-fledged well-functioning tape.

We talked about measures other jurisdictions have in place or are considering. We talked about the closest foreign jurisdiction, UK, their approach to certain elements like the double volume cap, where my understanding is that greater discretion might be granted to supervisor.

The UK published the results of its consultation on the “Wholesale Market Review”.

Their objective is to establish a simpler, less prescriptive and more agile regime, removing unnecessary regulatory burdens and restrictions.

While I do not see the risk that we might be a rule taker in this context, I would see the importance of looking at other jurisdictions.

We must see if there are risks of putting the EU financial markets at a competitive disadvantage.

This requires attention from EU policymakers and certainly emphasises even more the need for the EU to thoughtfully design and implement changes to the current MiFID framework.

To conclude, when I look back on our travel toward CMU the first phase of the CMU project mainly focused on the development of capital markets at national levels.

Less was done for removal of cross- border barriers and the creation of a single unified European capital market.

Today, European capital markets remain highly fragmented, economic agents do not face identical rules and do not have equal access to financial instruments or services.

Sometimes when talking to you felt like a member of collective frustration club.

Fragmentation has led to smaller and disconnected liquidity pools with less efficient and more volatile pricing.

This is why through MiFIR we need to work together towards the creation of a truly single CMU.

And we need to get it right.