



## PRESS RELEASE

(Embargoed until 09/02/2011 14:00 hours Brussels time)

On the launch of the Report: 'MiFID 2.0: Casting New Light on Europe's Capital Markets'

### ECMI and CEPS Task Force Group Sets Out Priorities in the Revision of the Markets in Financial Instruments Directive (MiFID)

**Brussels, 09 February, 2011** – The forthcoming MiFID review should clarify intended scopes, fill gaps in the legal text, and harmonise supervisory practices among member states, a new Task Force report released today by Brussels-based think tank CEPS and the European Capital Markets Institute (ECMI) claims. Its authors call for the benefits of a new competitive environment to be spread along the value chain and passed-on to final users, retail and wholesale investors, as appropriate.

The report, titled *MiFID 2.0: Casting New Lights on Europe's Capital Markets* provides a generous set of findings from current legislative proposals, academic literature, and market views. It identifies potential market failures and offers valid alternatives. It focuses on three core areas:

- (i) Transparency;
- (ii) Market structure; and
- (iii) Provision of investment services.

## KEY FINDINGS

### Greater transparency... yes but it is no panacea

- Transparency plays a crucial role for the smooth functioning of financial markets and the monitoring of systemic risk. However, **transparency is no panacea for market failures**. Ill-defined transparency requirements would harm market efficiency in less liquid markets without increasing investor protection or reducing systemic risk. Hence, regulatory intervention should be proportional to the nature of each market.
- Confidential disclosure to regulators (transaction reporting) should be extended to all financial instruments admitted to trading on regulated markets, multilateral trading facilities or organised trading facilities.

### Greater competition... should ultimately benefit end investors

- Financial market infrastructures are competing networks. Stronger action is needed to keep barriers to entry and exit low, giving due attention to economies of scale and scope. Legislators and supervisors should work together to **realise a more open market architecture**.
- The industry's Code of Conduct (on post-trade) was a positive first step in this direction. However, more remains to be done to solve existent commercial and technical challenges and overcome barriers to entry.
- Increased accessibility to the post-trading infrastructure could be achieved through **unbundling and better interoperability of services**, together with clearer legal definitions (e.g., 'legitimate commercial ground').
- The Review should make sure that the benefits of the new competitive environment are spread along the value chain and passed-on to **final users, retail and wholesale investors**.

### Financial stability measures... should not stifle innovation

- The systemic importance of modern capital markets highlights the inner tensions among financial stability, market efficiency and technological innovation. A well-functioning market must balance efficiency and safety.



- A coherent set of **emergency procedures in case of market disruptions** should be designed in consultation with market participants (e.g. circuit breakers). Several efficient monitoring systems are already in place that could serve as model.
- To **monitor systemic risk**, aggregate data on net exposures should be disclosed, in particular for financial instruments whose value is linked to an underlying asset (structured financial products and **OTC derivatives**). Infrastructures, such as trade repositories, can usefully manage this disclosure.

#### Best execution needs to be delivered... but also data on execution quality

- Best execution duties lie at the foundation of the fiduciary relationship between service providers and clients. More accurate execution policies and **better quality execution data** should allow better monitoring of execution.
- MiFID II should clarify if execution policies follow an **obligation of 'means' or of 'results'**.

#### Looking for a more independent advice... but also accessible

- Investment advice must always be 'suitable'. A suitable advice can be most likely achieved through imposing a neutral and independent system of remuneration.
- However, mandating a **fee-based charging structure may increase service costs** and reduce accessibility by investors.
- It might be preferable to **make both solutions available** and, in addition, to mandate disclosure of all adviser fees. In this way, investors themselves would be able to choose the one that best suits their needs.

#### Monitoring market practices... but also less rhetoric on 'speculation'

- **'Curbing speculation' is a vague objective**, since it remains highly controversial how to distinguish between hedging and speculative trading. The focus should rather be on market abuses.
- In **commodity markets**, regulators should shed light on the risks of price manipulation that arise from the accumulation of dominant net positions in future and derivatives markets. Supervisory powers should be strengthened through position limits, for physical markets or markets for non-storable commodities (like electricity), and position management to monitor if operators have reached a net dominant position in the market and avoid settlement squeezes.

#### Clearer and sounder regulation... but also convergent supervisory practices

- The Review should remove regulatory gaps, harmonise supervisory practices, and clarify the intended scope of the original MiFID framework.

#### About the Task Force

In its five meetings during the second half of 2010, the Group gathered 31 representatives of European financial markets, including stock exchanges, multilateral trading facilities, asset managers, investment banks, and commercial banks.

The Task Force Group, run by ECMI and CEPS, was chaired by *Pierre Francotte*, former CEO of Euroclear, and General Manager of PLF International. *Karel Lannoo*, CEO, CEPS and Director of ECMI and *Diego Valiante*, a Research Fellow at ECMI and CEPS are rapporteurs of the Group and authors of the Final Report.

Download the executive summary (from February 9th 14:00 hours)

<http://www.eurocapitalmarkets.org/pub/mifid2.0>

More information about the events: [Brussels event \(09 Feb 2011\)](#) / [London event \(14 Feb 2011\)](#)

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### **About ECMI – European Capital Markets Institute**

ECMI is an independent non-profit think tank created in 1993 to provide a forum in which market participants, policy-makers and academics alike can exchange ideas and opinions concerning the efficiency, stability, liquidity, integrity, fairness and competitiveness of European capital markets and discuss the latest market trends.

These exchanges are fuelled by the publications ECMI regularly produces for its members: quarterly newsletters, annual reports, a statistical package, regular commentary and research papers, as well as occasional workshops and conferences. ECMI also advises European regulators on policy related matters, acts as a focal point for interaction between academic research, market sentiment and the policy-making process, and promotes a multidisciplinary and multidimensional approach to the subject.

Since 2006, ECMI is managed and staffed by the Centre for European Policy Studies (CEPS) in Brussels. Its membership is composed of private firms, associations, regulatory authorities and universities.

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### **About CEPS – Centre for European Policy Studies**

Founded in Brussels in 1983, the Centre for European Policy Studies (CEPS) is among the most experienced and authoritative think tanks operating in the European Union today. CEPS serves as a leading forum for debate on EU affairs, and its most distinguishing feature lies in its strong in-house research capacity, complemented by an extensive network of partner institutes throughout the world.

CEPS' funding is obtained from a variety of sources, including membership fees, project research, foundation grants, conferences fees, publication sales and an annual grant from the European Commission.

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