Proposal for a Task Force on

‘MiFID Review: What is Next for European Capital Markets?’

Introduction

The European Capital Markets Institute (hereinafter, ‘ECMI’) and the Centre for European Policy Studies (hereinafter, ‘CEPS’) wish to engage in the international debate with European regulators on the review of the Markets in Financial Instruments Directive (hereinafter, ‘MiFID’). In order to achieve this, ECMI and CEPS launch the proposal for a Task Force titled ‘MiFID Review: What is Next for European Capital Markets?’ (hereinafter, ‘Task Force’) with market participants, international experts, academics and regulators. The revision of MiFID represents a new challenge for Europe, which strives to improve efficiency and integration of its capital markets. A new approach needs to bring different interests around the same table in order to coordinate efforts on these complex issues. The Task Force - in its meetings - will evaluate current proposals and discuss the prospects of the review, proposing a set of recommendations for the forthcoming MiFID review. Analyses and recommendations will be included in a final report issued by the end of 2010, which will be submitted by ECMI and CEPS to the European regulators. Regulators, in fact, will be actively involved in the Task Force meetings in order to fine tune the work of the Task Force with theirs. Therefore, the final report will be timely delivered by ECMI and CEPS to the European Commission, DG Internal Market, and CESR with the purpose of providing support to their policy-making processes. A final event(s) will launch the report with the participation of European institutions and media.

ECMI - under the umbrella of the Centre for European Policy Studies (CEPS) - can provide high-quality and independent expertise to support the drafting of the final report. The subject of the proposed Task Force requires an interdisciplinary team with proven capacity to cover legal and economic issues, and translate the results of the empirical work into a meaningful framework for formulation and evaluation of future policy actions. Accordingly, we propose a multidisciplinary research team that will support a Task Force composed in large part by economists and lawyers, who are market practitioners, academics and independent researchers. In addition, ECMI and CEPS will use their wide networks of contacts to invite to each meeting relevant actors within European institutions (e.g. European Commission and the Committee of European Securities Regulators), Member State financial authorities and academy in order to enrich the discussion and the content of the final report.

This proposal is structured as follows. Section 1 below describes the background of the proposed Task Force, and lists the main aspects of MiFID and their impact on European capital markets. It also take into
account - to the extent relevant for the purposes of this Task Force – the MiFID timeline for next months and the expected dates, as well as the principles of the ‘review’ described in the consultation papers issued by the Committee of European Securities Regulators (hereinafter, “CESR”) last April 2010.

Section 2 illustrates the main objectives of this Task Force.

Section 3 describes the content and purpose of each of the 5 meetings in which we have divided the Task Force activities along the guidelines provided in this proposal. In addition, we define the methodology that will support the drafting process of the final report, which will evaluate several policy options and will set useful recommendations for policy-makers.

Section 4 gives a brief description of our research team, which will be led by ECMI.

Section 5 contains a description of the fee for participating to the Task Force. Discounted fees will be offered to CEPS and ECMI members only.

1. Background of the Task Force

- **MiFID and the FSAP.** The MiFID Directive and its implementing measures\(^1\) represent one of the most important measures of the Financial Services Action Plan (hereinafter, ‘FSAP’)\(^2\). Within the overarching goal of ensuring a single market for wholesale financial services, the MiFID Directive aims at establishing a legal framework for integrated securities and derivatives markets in Europe. The Directive is one of the most crucial measures of the FSAP, which is a sophisticated attempt of the European Commission to provide the Community with tools to meet the challenges of the monetary union and to reap the benefits of a single integrated market in financial services. The FSAP is the follow-up of an earlier Communication of the Commission of October 28, 1998\(^3\). The plan includes 42+3 measures (of which 29 directives)\(^4\) with different priorities and timetables for each measure.

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4 Originally the measures were 42 (plus the amending to the 14th Company Law Directive that has been blocked), then, the Commission added a Communication on clearing and settlement (COM 312, 2004) and a regulation on cross-border payments (reg. 2560/2001).
• **Comitology.** MiFID is one of the four Directives (plus, Market Abuse, Transparency and Prospectus directives) that have followed a new law-making process (so called, ‘Lamfalussy procedure’), which entails a substantial involvement of committees of experts and regulators (‘the comitology’). This procedure gives market participants more opportunities to raise concerns and help regulators to improve regulation in the drafting process. This Task Force is a great opportunity for market participants and experts to raise their voice and find common objectives and views on specific issues of the forthcoming review of MiFID.

• **MiFID Scope and Principles.** As showed in figure 1, MiFID aims at reaching two high-level principles through the implementation of two more specific targets: investor protection and market efficiency. The Directive tries to achieve these targets proposing a detailed framework of rules in 4 areas:

  1. European Passport (freedom of action across the EEA once received the authorisation in one of the Member States);
  2. Organisational Requirements (compliance officer, outsourcing, internal control systems, record-keeping, conflicts of interests);
  3. Conduct of business rules (clients classification, best execution, know-your-customer rules, marketing, information to clients, handling orders rules); and
  4. Market structure and Transparency (abolition of concentration rule, detailed transaction reporting, pre and post-trade transparency).

**Figure 1. MiFID Principles**

Source: Author.
• **MiFID Implementation.** An assessment of MiFID by our research team\(^5\) has found that the legislation has been remarkably successful in terms of improving market structure and efficiency driving down trading (and post-trading) costs, despite the original scepticism of the industry. MiFID unleashed competition and fragmentation into the market without apparently affecting price formation and pushing participants to invest in infrastructure and new technologies. More should be done on price discovery, business conduct rules (and investor protection), and to open the market for data to competition. The impact of MiFID on European financial markets needs to be better understood, taking into account the role of the current economic crisis in distorting the real effects of the implementation. The final report will also shed lights on the impact of MiFID in the last three years.

• **The Review.** The MiFID review will start in early 2011 with the adoption of a legislative proposal for level 1 regulation and it will finish by the end of 2012 with the adoption of level 2 implementing measures (see figure 2). Despite this long law-making process, the upcoming MiFID review will take a ‘light touch’, clarifying some definitions and extending price transparency to related segments of securities markets. Principles will not be revised. With the publication of three consultation papers, the Committee of European Securities Regulators (hereinafter, ‘CESR’) has informally started the process of revision, providing a wide set of policy options that can be taken up by the Commission in its review. CESR highlighted three areas of action: (i) transaction reporting; (ii) equity markets (structure and transparency); and (iii) investor protection and intermediaries\(^6\). For instance, initiatives that promote consolidated pre and post-trade transparency solutions will allow end-users to fully participate in the changes brought about by MiFID, restoring investors’ trust and pushing more liquidity in equity markets. The start of the European Securities and Markets Authority (ESMA) then should allow for better enforcement of the conduct of business rules.

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2. Objectives

The Task Force activities will engage participants in the international debate on the MiFID review in order to promote specific objectives.

- Evaluating the impact of MiFID in the last two years and assessing the existing policy options that are pending at CESR and the EU Commission in line with the Directive’s principles.

- Supporting - with our recommendations - the assessment of current policy options taken into consideration by European Commission, European Parliament and Member States authorities.

- Involving regulators in the activities of the Task Force in order to fine-tune our work with their needs.

- Proposing new policy options and supporting regulators in the revision of legal definitions and thresholds.

- Providing independent analyses, research and data. ECMI and CEPS will oversee the drafting of the final report and recommendations in order to keep the research independent and in line with principles and proposals approved by the Task Force members. In effect, the report carried out by the rapporteurs should be generally approved and supported by all Members, even though not all of them may necessarily agree on all the detailed issues.

- Promoting a forum discussion on regulatory reforms and market developments with regulators, key international experts and academics in order to boost a more in-depth discussion.
3. Work Plan and Methodology

Task Force meetings will be held at CEPS and ECMI offices in Brussels. Five meetings will be held before the launch of the final report in December 2010, which will be done through an event with the participation of regulators, media and international experts.

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<tr>
<th>Meeting</th>
<th>Date*</th>
<th>Time</th>
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| Meeting 1 | 11/06/2010 | 10.30 - 16.30 (lunch 13.00-14.00) | ✓ Chair’s opening remarks  
✓ Defining the terms of reference (open discussion)  
✓ Assessing the impact of MiFID after more than two years of implementation (Karel Lannoo’s presentation with open discussion and Members’ data and research so far)  
✓ The terms of the MiFID review: principles or rules? (EU Commission or CESR official’s presentation with open discussion)  
✓ What should the priorities be in the MiFID review? Members’ views (Members’ presentation)  
✓ Agreeing on the agenda for next meetings (next Members’ presentation and guest invitations on the highlighted topics)  
✓ Wrap-up of the meeting’s conclusions and terms of reference (Chair) |
| Meeting 2 | 09/07/2010 | 10.30 - 16.30 (lunch 13.00-14.00) | ✓ Chair’s opening remarks (main points from the last meeting)  
✓ Post-trade Transparency in European Capital Markets after MiFID: what is missing? (law firm or regulator’s representative)  
✓ Transaction reporting: what is really needed? (one or more Members’ detailed presentation; open discussion)  
  - Standardisation  
  - Granularity  
  - Real-time or delayed publication  
  - Consolidation  
✓ Wrap-up of the meeting’s main conclusions (Chair) |
| Meeting 3 | 17/09/2010 | 10.30 - 16.30 (lunch 13.00-14.00) | ✓ Chair’s opening remarks  
✓ The role of pre-trade transparency in current financial markets (academic or member’s presentation)  
✓ Revision of waivers: Members’ proposals (Members’ presentations and open discussion with regulators representatives)  
✓ Classification of broker-dealer crossing networks: MTF, Systematic Internalisers or a middle solution? (Members’ presentation and open discussion)  
✓ Approval of the structure of the final report (presentation and Members’ contributions)  
✓ Wrap-up of the meeting’s main conclusions (Chair) |
| Meeting 4 | 08/10/2010 | 10.30 - 16.30 (lunch 13.00-14.00) | ✓ Chair’s opening remarks  
✓ Best execution for professional investors: too broad definition (member’s presentation and open discussion)  
✓ Best execution for retail investors investors: what do we really need? (member’s presentation and open discussion)  
✓ The regulatory authority’s oversight of best execution duties (Member State regulatory authority’s representative and open discussion) |
| **Meeting 5** | **29/10/2010** | **10.30 - 16.30**  
(lunch 13.00-14.00) |
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<td>Chair's opening remarks</td>
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<td>Misselling practices and bundled services and products: what is the role of the competition policy in financial markets? (Academic presentation)</td>
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<td>Unbundling of services and products: where is action needed? (Members’ presentation and open discussion with regulators’ representatives)</td>
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<td>Short discussion on market access</td>
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<td>Full extension of MiFID to non-equity markets (open discussion)</td>
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<td>Review and approval of the draft final report (verification if further contributions are needed)</td>
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<td>Wrap-up of the meeting’s main conclusions (Chair)</td>
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| **Launch Event** | **Early December 2010** | **To be defined**  
Lunch-time Meeting |
|------------------|------------------------|-------------------|

*Dates can be subject to change, prior approval of Task Force Members.

As shown in figure 3, the Task Force will closely work with ECMI and CEPS research stuff during the three phases of the project. The first phase will consist in:

- Organising meetings and defining methodology and terms of reference;
- Drafting meeting reports;
- Collecting data and contributions from Members; and
- Requesting active participation from Members with presentations for the meetings.

The second and third phase will add to the tasks of the first phase:

- Drafting the final report;
- Further cooperation with Members (with amendments and comments to the draft final report); and
- Launch event with media coverage.
The final report aims at:

(i). Classifying current policy options (cost-benefit analysis) and proposing new ones;

(ii). Linking these options to the existing market structure;

(iii). Assessing the impact of those policies on market participants;

(iv). Identifying failures and recommending potential solutions; and

(v). Proposing ‘optimal thresholds’ and sound legal definitions.
4. Research Team

Rapporteurs of the Task Force will be Karel Lannoo and Diego Valiante. The main aspects to identify ECMI and CEPS expertise are the following:

- **Multi-disciplinary nature of the work**: regardless of the interim reports in which the tender has been divided, any Task Force report is likely to require expertise that goes beyond the direct focus of the assessment to be performed. A report on the MiFID review will require competence in the assessment of economic and legal impact of forthcoming rules, which in turn may require skills in the quantification and analysis of impacts that are only indirectly related to the policy proposals at hand. Therefore, ECMI and CEPS represents a team of experts in all the fields relevant to this proposal (economic, legal and cost-benefit analysis), as illustrated in more detail in the section above. Moreover, ECMI and CEPS propose that all relevant dimensions are duly taken into account with the involvement of the European Commission, Parliament and Member States’ authorities.

- **Quality**. Despite growing attention for ex ante and ex post assessments of policy options, there is still a fairly limited number of academics and practitioners who have devoted significant efforts in this complex policy field. ECMI and CEPS represent some of the most authoritative experts in this field, including scholars and market practitioners that have significantly influenced the debate over the past years. In particular, the European Capital Markets Institute has provided extensive research in the field of the MiFID and other EU capital markets-related issues.

- **Reliability and timeliness**. ECMI and CEPS have already published many Task Force reports, which have given a great support to policy processes of main European institutions. In addition, ECMI and CEPS have also shown a remarkable ability to respond to requests for studies and reports by EU institutions, including the European Commission’s DG Internal Market. In particular, our team has already showed ability to timely deliver research and studies at European level. The peculiar organisation and modus operandi of ECMI and CEPS researchers is explicitly designed to provide for timely and high-quality services, able to influence the international debate.

- **Geographical reach**. Despite being based only in Brussels, ECMI and CEPS have a long-standing experience in the performance of studies that require an extensive geographic reach, covering the EU27 and beyond. This is due to a number of factors: (i) ECMI and CEPS have a very international team of researchers from almost all EU member states; (ii) ECMI and CEPS coordinate a large number of networks specialised in policy analysis, which can support teh Task Force work and the drafting process; (iv) ECMI and CEPS have created in the years a huge

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7 Please, visit our websites [www.ceps.eu](http://www.ceps.eu) and [www.europacapitalmarkets.org](http://www.europacapitalmarkets.org) for a list of relevant Task Force reports that CEPS and ECMI have published in the recent years.
database and network of contacts across Europe, which give to the Institute a competitive advantage over many other research centres.

5. Costs

The participation to the Task Force is subject to a discounted fee for ECMI and CEPS members, and to a full fee for non members. Discounted fees will be considered for non-members if they decide to become member of ECMI and/or CEPS.

The fee covers: ECMI and CEPS research, organisational costs, launch event, documentation, lunches, printing and editing costs of the final report (5 hard copies for each Member). Members’ travel and accommodation costs are not included. Upon request, ECMI and CEPS will mail additional copies of the final report to Members, at their expenses.

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<td>ECMI Members</td>
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<td>CEPS Corporate Members</td>
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<tr>
<td>Non-Members</td>
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* If you have any questions regarding the Task Force, please contact:

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To register, please use the Registration Form (below)
ECMI/CEPS Task Force

‘MiFID Review: What is Next for European Capital Markets?’

First meeting at CEPS 1, Place du Congrès Brussels Date: 11 June 2010

Participation in the Task Force is €1,000 for ECMI members, €2,000 fee applies for CEPS Corporate Members and €6,000 for non-members.

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Your reference, Customer Purchase Order No. or Cost Code N°

Please tick correct box:

- My company is a corporate member of ECMI and pays €1,000 (+21% VAT).
- My company is a corporate member of CEPS and pays €2,000 (+21% VAT).
- My company is not a corporate member of CEPS or ECMI and pays €6,000 (+21% VAT).
- My company is interested in becoming a member of CEPS or ECMI. Please send me additional information.

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