



**MINISTRY OF INDUSTRY, BUSINESS
AND FINANCIAL AFFAIRS**

*Valdis Dombrovskis
Executive Vice-President for An Economy that Works for People and
Commissioner for Financial Services, Financial Stability and Capital
Markets Union
European Commission*

**MINISTER FOR INDUSTRY,
BUSINESS AND FINANCIAL
AFFAIRS**

Dear Executive Vice-President Valdis Dombrovskis

The Danish government welcomes the opportunity to respond to the European Commission's consultation regarding the review of the MiFID II/MiFIR regulatory framework.

Generally, it is important to maintain and increase confidence in financial markets, including to improve investor protection, and to foster competition among market players to the benefit of investors and firms that need access to capital. The MIFID II/MIFIR regime contains many important measures in this regard.

However, experience has shown that there is still a risk of regulatory arbitrage and non-harmonised application, which harm transparency for investors and market integration efforts. Considering this and the short time since the last review was concluded, we recommend a targeted review addressing specific shortcomings and unintended or overlapping interactions with existing or new regulations, based on thorough impact assessments to ensure a framework fit-for-purpose.

Overall, we recommend the Commission to look at solutions to further strengthening transparency and investor protection, especially in the following four areas.

1. Investor protection

Transparency, comparability and access to adequate information is crucial, allowing investors to make informed investment decisions. However, given the nature of products and market developments we believe it is equally important to continue to ensure that only suitable products are distributed to retail investors, thereby avoiding misconduct or misselling of products.

Moreover, we stress that quality, not quantity of available information to the intended segment of investors and efficiency in the system is highly relevant to activate participation of stakeholders.

Furthermore, based on our experience,¹ we suggest that the Commission adjust and clarify certain requirements to the rules regarding third party

**MINISTRY OF INDUSTRY,
BUSINESS AND FINANCIAL
AFFAIRS**

Slotsholmsgade 10-12
1216 Copenhagen K
Denmark

Tlf. +45 33 92 33 50
Fax. +45 33 12 37 78
CVR-nr. 10092485
EAN nr. 5798000026001
em@em.dk
www.em.dk

¹ <https://www.finanstilsynet.dk/~media/Nyhedscenter/2019/RAPPORT-temaundersgelse-050219-pdf.pdf?la=da> Report is only available in Danish.

payments (inducements), without revisiting the full regime. This could ensure that information on inducements (costs) and the quality enhancing services provided is more transparent to and easily understandable for investors.

2. Technology and digitalisation

Given the increased use of technology and digitalisation in this space, with possible disruptive effects, the regulation should include future-proof solutions that allow for use and adaptation to the best possible technological solutions available while ensuring adequate risk mitigation processes so the goals of the rules continue to be met, including investor protection.

3. Trade transparency

Based on our experience there are still challenges with pre- and post-trade transparency, mainly due to continued trading outside of lit markets, fragmented data and poor data quality. Furthermore, for non-equity instruments the extensive use of optional national discretions challenge the level playing field.

4. Market data and Consolidated Tape

In the complex discussions with regard to fair pricing of real-time market data and consolidated tape, the main issue should be to ensure legal clarity in the current pricing rules. A trading venue should be able to include a fair amount of the costs for market data as well as general costs in the price to ensure a reasonable balance between data quality and fair competition.

While access to information is important, we are skeptical towards the feasibility of a fully-fledged, real-time consolidated tape due to its complexity, data issues and costs. Assembling high quality market data on post-trade information on all financial instruments seems to be a more viable option.

In conclusion, we strongly support the overall MIFID/MiFIR-regime and the aim of achieving even more transparent trading and information to investors. We look forward to contributing actively to the revision process.

Attached please find our specific replies to the consultation document. As always, I am at your disposal should you have any questions or comments.

Yours sincerely,


Simon Kollerup