



EUROPEAN COMMISSION

Brussels, 1.10.2012  
C(2012) 6641 final

Dear President,

*The Commission would like to thank the Bundesrat for its Opinion on the proposals to review the Markets in Financial Instruments Directive (MiFID) by means of a recast Directive {COM(2011) 656 final} and the introduction of a new Regulation {COM(2011) 652 final}. The Commission particularly welcomes your support regarding the regulation of over-the-counter activities, as well as the provision of investment advice. Let me also apologise for the delay in replying to the Bundesrat's Opinion.*

*With regard to the exemptions from the Directive, it should be noted that the Commission is concerned by the functioning of commodity markets. Our objective in the MiFID is to ensure that these markets continue to serve the real economy, and to create a level playing field for all market participants. Some safeguards to protect the clients of exempt firms are already included in the proposals, such as the obligation for such clients to be part of an investor compensation scheme, but additional safeguards to better protect the clients of exempt firms could prove necessary.*

*The Commission estimates of the costs and benefits of the MiFID proposals are based on an impact assessment. With regard to the proposed requirement to tape phone calls between investment firms and their clients, it should be noted that this is the current practice for most investment firms operating in Europe today.*

*With regard to the provision requiring trading algorithms to be in continuous operation, providing quotes at competitive prices throughout the trading day, the Commission's aim is to make algorithmic traders fully accountable and stabilising the markets.*

*Investment protection is at the heart of the rules laid down in MiFID – hence the importance of making a distinction between independent and fee-based advice. The Commission considers that the European Supervisory Authorities are playing a crucial role in protecting the users of the markets, and looks at their future development with confidence.*

*I hope that these clarifications address the main observations made by the Bundesrat and I look forward to continuing our political dialogue in the future.*

*Yours faithfully,*

Maroš Šefčovič  
Vice-President

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Präsident des Bundesrates  
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