



Mr Vassos Shiaryl
President of the Economic and Financial
Affairs Council
Ministry of Finance
1439 Nicosia
Cyprus

5 December 2012

Dear Sir,

I write to you regarding the current discussions on the Markets in Financial Instruments Directive II / Regulation (MiFID II / MiFIR). BUSINESSEUROPE has long been a supporter of MiFID and its objectives and has previously provided input to the policy making process for MiFID II / MiFIR through our position paper (enclosed for ease of reference).

Following the plenary vote in the European Parliament on MiFID II / MiFIR and the progression of Council discussions, we believe elements of the discussion in both Institutions do not fully account for the way in which financial markets work for business. This risks creating a framework that can significantly reduce access to finance and related services for European businesses. We would therefore like to emphasise the importance of ensuring that the new rules are supportive for European businesses.

The financial crisis highlighted certain weaknesses in financial markets which needed to be addressed. It is therefore right that the G20 subsequently made commitments with the aim of promoting integrity and stability within financial markets, and ensuring that they are subject to an appropriate degree of regulation and oversight. BUSINESSEUROPE supports these objectives. It is, however, important to recognise that the MiFID review, in addition to other regulatory change, has the potential to fundamentally alter the way in which European companies interact with the financial markets creating unintended consequences.

For most European companies, wholesale financial markets are invaluable – particularly for high-growth, job creating medium-sized businesses. They connect investors and issuers – enabling companies looking to invest and expand to raise financing, which is increasingly important as banks become less able to lend with stricter capital and liquidity requirements. For instance, European wholesale financial markets helped 340 new companies raise \$38bn for investment and expansion in 2011 (Bloomberg, - (IPO data)). The financial markets also provide access to products that enhance the stability and efficiency of financial management, helping companies reduce and manage risks associated with their business.



Europe's future economic success is highly dependent on the ability of governments and EU institutions to adopt and implement policies that support private sector-led growth, in the context of constrained public finances. In an already difficult business environment, Europe cannot afford to further restrict access to capital for businesses.

BUSINESSEUROPE therefore urges policymakers to continue to make sure that MiFID II / MiFIR leads to a well-designed market architecture that functions effectively and with integrity, encourages growth, and prevents damage to businesses in the wider economy.

In particular:

- It is imperative for European companies to maintain the OTC market to allow them to hedge their diverse business risks effectively. These markets perform a fundamental role in the risk management of corporate end users as they allow them to tailor risk management solutions specific to the risks they face in the course of their business. The MiFID review should not attempt to alter, or prevent this. Seeking to define in overly prescriptive terms the extent to which business is categorised as OTC would prohibit a broad range of transactions used by non-financial end users from being executed, preventing them from hedging or risk managing their business.
- Legislators must acknowledge that since not all markets are the same they must avoid a one-size-fits-all approach. Pre- and Post-trade transparency requirements must be proportionate, and there should be a truly competitive financial market – for example ensuring open and non-discriminatory access – to help reduce the end cost to businesses and to promote an integrated European single market for financial services.
- We believe that the exemption regime should be further developed and improved to provide greater clarity and certainty to market participants. Amendments that narrow the ancillary activity exemption even further will render the exemption of little use, even for non-financial firms which manage their commercial risks.

We remain at your disposal should you wish to discuss this subject further.

Yours sincerely,

Philippe de Buck

Encl.