

Mrs Connie Hedegaard
Commissioner for Climate Action
European Commission
Rue de La Loi 200
B- 1049 Brussels

14 September 2011

Dear Commissioner, Dear Madam Hedegaard,

Revision of the Markets in Financial Instruments Directive

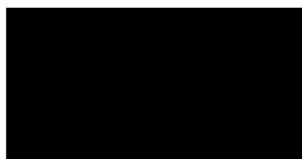
We have been made aware of the draft revision of Markets in Financial Instruments Directive (MiFID) and are concerned of the classification of ETS allowance as financial instruments.

While we share the Commission's preoccupation to further regulate carbon markets, the chemical industry is opposed to such a classification which ignores the specificities of this market and would have as a consequence to submit the transactions of chemical companies which are "forced compliant consumers" on this market to the rules applicable to financial institutions and transactions. Therefore, the proposed rules should be either adapted accordingly or treated separately.

Cefic considers that, in a first step, this market could be supervised by ESMA (European Securities and Markets Authority) which has regulatory powers before 1 January 2013, date of the entry into force of the new ETS system.

You will find attached our comments and remain at your disposal should you be willing to have any additional information.

Yours sincerely,



Jean Claude Lahaut
Secretary General



William Garcia
Executive Director

Cefic comments on carbon market oversight

13 July 2011

Cefic supports the Commission's objectives to improve carbon market oversight. The development of efficient rules for spot/forward and bilateral over-the-counter (OTC) transactions of ETS allowances ("carbon market") is crucial for the European chemical industry. The following is needed:

A. Ensuring effective supervision

- The authority of the European Securities and Markets Authority (ESMA) should be extended to carbon market as soon as possible even if the rules on market supervision are not yet adopted and implemented.
- As the independent EU financial system authority, ESMA should be in charge of the market surveillance and regulation of derivatives and carbon market, working in close cooperation and exchanging information with authorities such as the Agency for the Cooperation of Energy Regulators (ACER), as well as national authorities.

ESMA should be in charge of all carbon market oversight, as soon as possible and at the latest by 31 December 2012.

B. Defining emission allowances as a new asset class

Due to the hybrid nature of the ETS allowances, the chemical industry rejects the classification of these allowances as financial instruments.

C. Adapting MiFID and MAD rules and principles to carbon markets

- Cefic advocates for the Markets in Financial Instruments Directive (MiFID) and the Market Abuse Directive (MAD) rules and principles, to be applicable to carbon market, and any part, if relevant, of other markets regulation, provided that the necessary adaptations are made (e.g. adjusting MiFID constraints for compliance buyers whose trading activity is ancillary).
- When doing this, the Commission needs to ensure coherence between the rules that are already applicable to the derivatives and the new ones for carbon market.

Carbon market requires effective regulation under MiFID, MAD principles and rules with the necessary adaptations to be materialized within an adapted legal vehicle fitting to compliance actors and timing constraints, under ESMA supervision.

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