CONNIE HEDEGAARD
MEMBER OF THE EUROPEAN COMMISSION

Brussels, 19. 10. 2011
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Dear Mr Garcia,

Thank you for your letter of 14 September 2011 addressed to Commissioners Barnier, Tajani and myself concerning the Commission's work as regards the review of the Markets in Financial Instruments Directive (MiFID). My colleagues have asked me to reply on their behalf.

I welcome your support for appropriate oversight of the carbon market. We want to enhance the ability of supervisors to act on cases of misconduct, unfair treatment of clients, and threats for orderly functioning of the market. As noted in the MiFID consultation paper, the Commission Communication of 21 December 2010 and during a subsequent stakeholder meeting on 4 May 2011, which CEFIC attended, the Commission is very much aware that classification of emission allowances as financial instruments would bring changes to regulation and supervision of the spot segment of the carbon market. I understand that in the recent meeting on 16 September 2011, my services already assured you that this option is being explored with particular focus on the specificities of the carbon market and proportionality. Let me reiterate: it would not be necessary to impose substantial additional authorisation requirements on EU Emission Trading System compliance buyers with limited trading activity.

Stricter regulatory standards will provide for a safer and more reliable trading environment. These, in my view, are the real expectations of the carbon market participants who already now display a clear preference for concluding transactions in emission allowances and its derivatives on MiFID-licensed exchanges and who mostly have their transactions cleared by one of the clearing houses.

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The European carbon market needs a regulatory framework that is not only fit for the present market size but facilitates a healthy future development. Given this, we are working on the appropriate way to integrate the carbon market in the upcoming proposal to review the MiFID and the Market Abuse Directive (MAD) to strengthen the carbon market oversight, while acknowledging that some tailoring of the provisions is needed to strike the right balance between the level of protection for market participants and ease of access to the market.

Overall, I see we share the same views on the most important points. Any emerging regime would need to be coherent with the rules already applicable to the derivatives, in particular as they represent 90% of the carbon market today, and hence with the financial market rules. It would also need to embrace adequate measures against market abuse, based on the Market Abuse Directive. Finally, professional intermediaries and trading venues active in the carbon market need to be subject to a harmonised set of rules and comprehensive supervision of financial regulators to ensure effective action in case of misconduct.

Yours sincerely,

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