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MiFID is dead. Long live MiFID!

While a number of instruments have made a critical contribution to the EU's post-crisis financial market regulation, MiFID II undoubtedly constitutes a key cornerstone with central political objectives covering a wide array, stretching from transparency, over resilience and efficiency to consumer protection.

However, almost a decade after the planning around MiFID II started and about 18 months of practical application experience later, there is growing discontent that some important areas have not fully delivered on the intended political objectives.

This may not necessarily come as a surprise when considering that the final and arguably complex set of rules stretches beyond 25000 pages. But while it may retrospectively occur ironic that the Commission's 2011 announcement of the MiFID Review stated that "the main benefits of MiFID will be very tangible, but are not readily quantifiable", let us take a step back and ensure to set the right context in understanding the importance of MiFID.

With a number of indicators pointing to an overall weaker global economic performance, it is critical to understand that the EU is rather leading the race on sluggish performance with a forecasted 2019 GDP growth of only 1%. This is where the fundamental thinking around the Capital Markets Union as well as key future-oriented, accompanying initiatives, such as around the International Role of the Euro, come in.

It has been long established that the EU could benefit from a solid development of its capital markets, where key proxies illustrate that we are still far behind globally leading jurisdictions. And with Brexit on the horizon, we can safely agree that the project becomes rather more urgent and serious.

So how does MiFID fit into this picture? With a total of 663 registered trading venues, MiFID II has arguably resulted in a landscape that some may call competitive and others fragmented. Especially the equity trading landscape illustrates that transparency has not been increased with "lit" venues' market share being slightly reduced, accounting for only +/- 40%.

In addition, it is important to observe that well-intended safeguards do not result in the desired outcomes, such as the Double Volume Cap, which does not make a meaningful contribution to "lit" trading.

However, it is highly questionable if such market structure is desirable against the background of key political objectives. In fact, the number of companies listed on exchanges keeps decreasing, and so do the numbers of IPOs and the amount of capital being raised.

This raises the question whether the increased fragmentation, mainly result of an artificial hyper-intra-EU-competition between trading venues facing diverging regulatory requirements, has contributed to the decrease in capital markets funding.

Without doubt, transaction fees have significantly reduced – but it occurs questionable whether this results in the desired outcomes, given that end investors do not appear to see significantly reduced total execution costs while also the overall growth ecosystem seems to suffer.

As the EU's most monumental financial regulatory framework and as a key piece of the puzzle, it is critical to assume the responsibility in reviewing MiFID II to be "fit-for-purpose", notably in light of a new political and economic reality at global and EU level.

Only if we manage to collectively assume our responsibility in ensuring that capital markets are finding themselves in a consistent framework that maximises their growth contribution capacity without compromising financial stability as the cornerstone of sustainable economic growth, we will be able to lay the foundation for an appropriate contribution to critical societal challenges.

Whoever understands the bless and curse in materially contributing to shaping a future financial system that European citizens and broader society are proud to endorse, shall recognise that such endeavour is philosophically probably best understood to be a strive for unachievable perfectionism that is nevertheless worth aspiring to be approximating. MiFID is dead.

Long live MiFID!