

Introduction

This paper aims to compare the European Union (EU) and U.S. securities regulations. In November 2007, the Market in Financial Instruments Directive 2004/39/EC (MiFID) came into force in the EU and unleashed competition in European securities markets. The same year came into force in the United States the Regulation NMS (Reg NMS) which was designed to foster competition among individual equities markets and orders. This study compares MiFID with the corresponding U.S. regulations, and primarily focuses on the regulatory and supervisory framework, trading venues, and the provision of investment services. The implementation of the rules, enforcement, and right to redress are beyond the scope of this study. Likewise, the paper does not intend to judge the effectiveness of the two regulatory systems.

In recent months, the international financial crisis has revealed gaps in securities regulations. Main issues have focused on the imperfect oversight of large interconnected institutions, the low transparency of OTC markets, especially derivatives, and the insufficient liquidity and capital across financial institutions. As regulators have announced plans to address those issues, a comparison of the securities regulations in Europe and the United States helps to understand where we are coming from.

The paper focuses on the 2004/39/EC MiFID Directive and its two implementing legislations in Europe; in the United States, it mostly encompasses the 1934 Securities Exchange Act, the FINRA rules and the Reg NMS. The U.S. framework is characterized by a powerful supervisor and important powers assigned to self-regulatory organizations. In the EU, legislation is more recent and unified and characterized by the absence of a supra-national supervisor; self-regulatory organizations have more limited powers. The study looks at the regulatory frameworks in the EU and United States, the scope and objectives of securities regulations, the rules implementing the different objectives, and draws some crisis-related lessons.