

# F Making sense of MiFID II

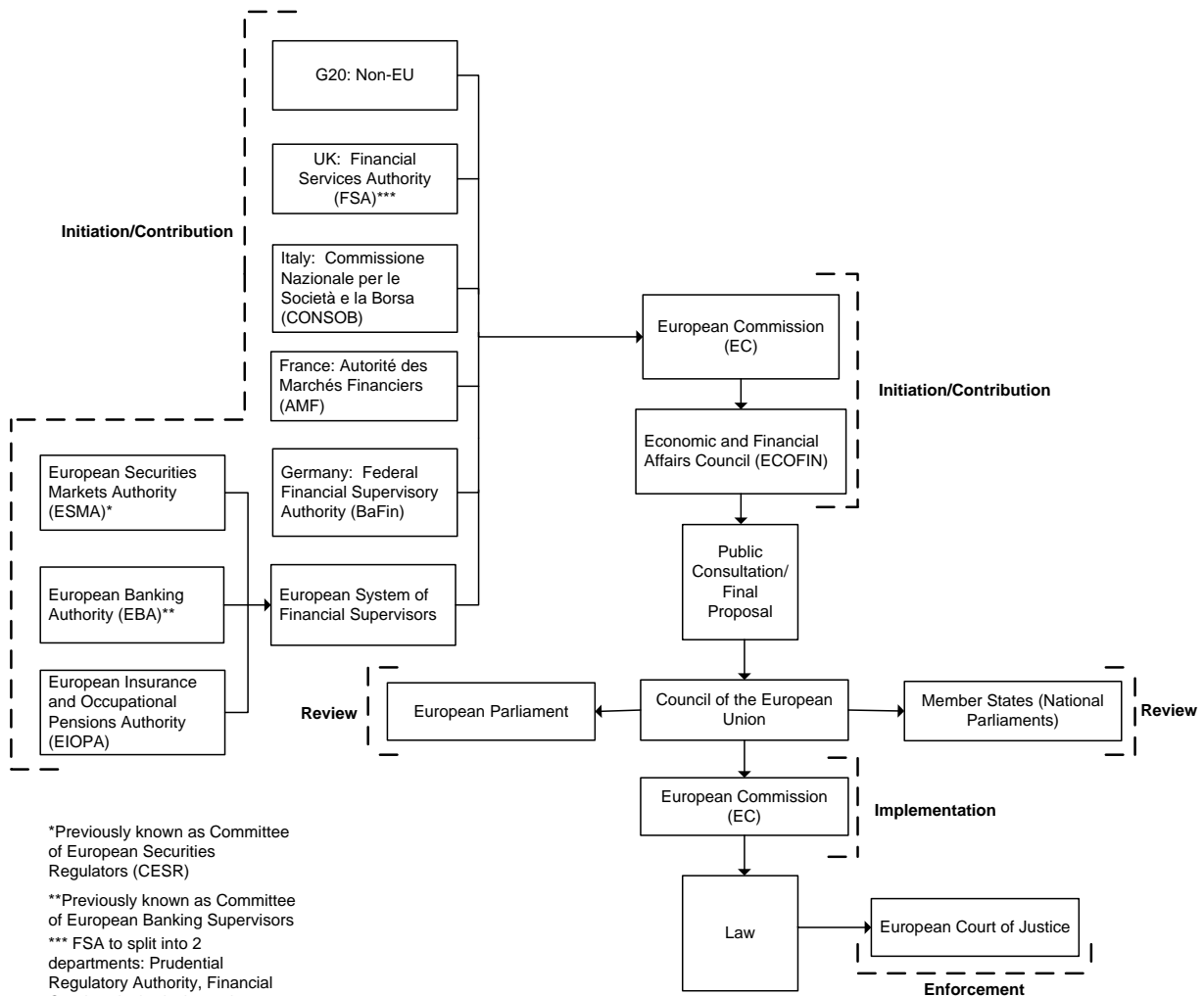
## The Cookie Monster

The MiFID journey began way back in 2004 and followed a four stage process, entitled the Lamfalussy process, prior to its 'law' date in November 2007.

The process centred on a 4-level legislative approach that encompassed:

1. The initial EU decision making and input from financial regulators
2. Technical implementation
3. Application across member states
4. Enforcement by law

The review of MiFID - the sequel, MiFID II - follows a similar process as shown in the diagram below.



So what are the responsibilities of the main players within the EU across each of these stages?

## Initiation/Contribution

### Who? The European Commission.

The EC has a monopoly within the EU for creating legislation and is thus the only legislative branch within the EU that can make formal proposals for legislation. For MiFID II the EC consulted various financial authorities in EU member states as well as the EU equivalent, the European System of Financial Supervisors, to advise on market reform. A Public Consultation also provided the EC with input from across the markets.

## Review

### Who? The European Parliament and European Council.

The EU's legislative authority is divided between the Council and the Parliament. Once finalised, the Commission will present the MiFID II proposals to both Parliament and Council who will in turn adopt a procedure known as ordinary legislative procedure with the aim of agreeing a common position. Once agreed, authority is given for the legislation to be passed and created as law.

## Implementation

### Who? The European Commission.

The EC is also responsible for implementation once legislation is passed as law. In the case of MiFID II the EC configuration responsible is the Economic and Financial Affairs Council (ECOFIN).

## Enforcement

### Who? The European Court of Justice.

The European Court of Justice is tasked with ensuring there is equal application of MiFID II across all EU member states. If a member state fails to pass the required national legislation, or if the national legislation does not comply with the directive, the Commission can initiate legal action against that member state via the Court. The EC's power to refer to the courts was evident in the first round of MiFID regulations when [the EC referred the member states of Spain, Poland and the Czech Republic to the European Court of Justice](#) for failing to write MiFID into national law within their respective countries.

Like the new 'cookie' legislation, MiFID II has received a lukewarm reception in some parts of the industry. However, as noted, legislation is not simply raised on a whim but is passed through various governing bodies and industry experts prior to it becoming law. MiFID II has a long journey ahead and, contrary to what some may believe, new EU laws such as MiFID and the Privacy and Communications Directive are not all the work of the Dark Lord of the EU (or the Cookie Monster).