EURONEXT

MEMO

EURONEXT COMMENTS ON REGULATORY TREATMENT OF MULTILATERAL TRADING VENUES
December 2020

In the context of ESMA's Consultation with respect to the functioning of Organised Trading Facilities (OTFs) (here), Euronext contributed its position on what we believe should be the priority of policymakers in the context of the upcoming MiFID II/MiFIR Review.

In the Consultation paper, ESMA addresses the setup of trading systems, the trading landscape and the authorisation process.

With this in mind, Euronext believes it is instructive to recall the original MIFID II goals. As outlined in the recitals, the aim was to establish a **comprehensive regulatory regime governing the execution of transactions in financial instruments irrespective of the trading methods** used to conclude those transactions so as to ensure a high quality of execution of investor transactions and to uphold the integrity and overall efficiency of the financial system.

One of the key pillars of investor protection is ensuring trade execution takes place at a price based on well informed order flows. Securing such effective and reliable price formation relies on transparent and liquid markets. While a range of trading venues contributes to the price formation process in Europe, **Regulated Markets hold a central role in guaranteeing and providing core price formation** which is highly relevant for the market as a whole. Indeed, it also enables many other venues to offer alternative competing execution channels to the market.

When it comes to equities market structure, MIFID II sought to strengthen price formation by moving dark trading to transparent multilateral trading venues. The legislation set out to achieve this by banning Broker Crossing Networks (via the share trading obligation or STO) and restricting activity on dark pools (via the double volume cap or DVC).

However, the MiFID framework has, despite its objectives, failed to strengthen the price formation process. This failure is rooted in market structure issues which should be the subject of a thorough analysis and review. **Addressing and resolving issues around market structure will, in our view, have a much greater impact on the transparency of European capital markets** and the price formation process than other proposals such as the consolidated tape which have been, nonetheless, prioritised to date as an apparent central solution to market transparency and price formation in the EU.

In this sense, we welcome ESMA's decision to tackle some of the issues at the core of the market structure debate in this Consultation. ESMA rightly addresses the disparity in the markets when it comes to the authorisation of multilateral systems. We support the approach suggested by ESMA (paragraph 41 of the Consultation Paper) to move Article 1(7) MiFID to MiFIR. **We agree that divergences in national implementation as well as in supervisory approaches need to be avoided**. Only with a convergent approach towards the authorisation of multilateral trading venues, creating a level playing field and equal protection of investors, can a true Capital Markets Union emerge.

Not only do we support the move of the provisions to MiFIR, we believe **more steps need to be taken in order to further enhance investor protection**. The concept of multilateral trading is essential to this discussion. We have witnessed the emergence of platforms within scope of MiFID II/MiFIR that may interpret the concept of “multilateral trading” differently. This is fundamentally inconsistent with the notion of a Single Market and needs to be addressed. Its persistence poses challenges to investor protection, particularly in cases of platforms offering retail trading, and the principle of a level playing field.

We therefore suggest a proactive approach by ESMA in respect of ensuring supervisory convergence in the trading landscape. ESMA has many tools available and we believe those should be utilised in order to safeguard equal investor protection.