

## Euronext response to ESMA consultation on market data guidelines – Executive Summary

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### Introduction

1. Euronext operates regulated trading venues in 6 European countries. In addition, Euronext offers sophisticated market data solutions to clients based on their preferences and needs. Euronext is supportive of initiatives aimed at making MiFID II RCB disclosures and market data policies more comparable for customers. Euronext welcomed the opportunity to respond to ESMA's [consultation paper](#) and share its knowledge and views on ESMA's draft guidelines on the MiFID II/MiFIR obligations on market data.
2. Euronext is overall supportive of ESMA in that it pursues the transparency plus approach with a view to seeking more comparability and transparency. That being said, it is important to tread carefully in this complex area since there is a fine line between requirements aimed at increasing transparency and requirements that unintentionally may be of a more intrusive nature and, as such, would be unwarranted given the lack of evidence justifying a more intrusive approach.
3. In achieving that balance, we have reviewed the draft guidelines in detail and identified some practical implications of the proposed guidelines that could be reassessed. It is our view that there is a need for guidelines in this area to be looked at in close consideration of the broader market data value chain, market data policies and processes in order to be able to achieve the desired end outcome, while keeping the impact on market data providers and users limited.

In light of this, some of our key recommendations and views with respect to the ESMA proposal are:

### Provision of market data on the basis of costs

4. Euronext would strongly encourage ESMA to reconsider some of the drafting contained in Guideline 1, specifically **removing the restriction on allocating joint costs according to the revenues generated by the different services and activities of their company**. Allocating joint costs according to the revenues generated constitutes a common practice that is an efficient and economically sensible manner of allocating joint costs. Furthermore, Euronext fails to see how such a cost allocation is contradictory to the obligation to set market data fees based on costs of producing and disseminating market data.
5. Euronext would welcome the introduction of best practices in respect of audits and currently makes every effort to ensure that its auditing process is as straightforward and transparent for clients as possible. Euronext would however caution ESMA against placing the burden of proof on market data providers with respect to non-compliance with the terms of the market data agreement. Involvement of data users in the audit process is necessary to ensure that all market data users are held to the same standard in terms of compliance with market data agreements.

### Obligation to provide market data on a non-discriminatory basis

6. It is vital to recognize that market data providers' customers do not always fall into one customer category. In such cases, **applying one customer category only would amount to an artificial and inaccurate construct** that would lead to a highly inequitable outcome in the long run (to the benefit

of Tier 1 companies, such as large investment firms, and to the detriment of smaller national or local companies). For this reason, Euronext urges ESMA to reflect on the undesirable and unintended consequences of Guideline 4 as currently drafted and proposes changes to the guideline taking into account these concerns.

#### **Per user fees**

7. Euronext overall supports having a per user unit of count, thus charging per user rather than per device. However, while Euronext supports including this as a unit of count, **Euronext would not support this being the exclusive unit of count for display use**. Indeed, this model is appropriate for some, but not all, customers since the per user fee model comes with a certain amount of complexities and additional cost, not only for the market data provider, but also for the customer. As such, Euronext believes that whilst the Active user ID should be clearly part of the offering, it should not be the default.

#### **Transparency obligations**

8. Overall, Euronext supports the requirements for data providers to disclose information in the form of the standard template prescribed by ESMA. Such a template would foster standardization of data providers' publication of RCB information.
9. Euronext supports the introduction of some standardized key terminology, but not necessarily the key terminology as proposed by ESMA and outlines suggested improvements to the standardised terminology in its response. Euronext is happy to provide input and share its expertise with ESMA at any stage of this process and would emphasize that definitions lie at the basis of not just the contracts and commercial models of market data providers, but also the operations of market data providers, data vendors and users alike.
10. Euronext agrees that market data providers should have a clear and documented methodology for setting the price of market data. We also consider that the methodology should identify and disclose the costs that are solely attributable to the production and dissemination of market data (i.e. direct costs) and the costs that are shared with other services (i.e. joint costs). However, publishing an exhaustive list of all the types of costs included in the fees of market data, explanations around the determination of margins and margin differences, and especially allocation keys for joint costs, could in our view go beyond the scope of the current "transparency plus" approach.

#### **Making data available free of charge 15 minutes after publication**

11. Euronext appreciates ESMA's effort to stabilize the guidelines in regard to making market data available for free to the public 15 minutes after publication. Clarifications are indeed necessary in this respect and Euronext outlines some of the challenges encountered and key considerations on this topic in its response.

#### **Final remarks**

12. In addition to commenting on the proposed Guidelines, Euronext would like to encourage ESMA to allow for **sufficient time for implementation of the Guidelines** once finalised. The efforts required from Trading Venues, APAs, data vendors and end users to ensure compliance are significant. Parts of the Guidelines in their current form have the potential to significantly impact and disrupt market data contracts and/or business processes and cannot be reasonably implemented in a matter of just a few months.