
Subject Euronext Position Paper on ‘the promotion of the use of SME growth markets’

A. Introduction – Highlighting the Case of Bond-Only Issuers

1. Euronext fully supports the Commission’s goal to ensure easier access to capital markets for all companies, notably SMEs. In this regard, we welcome the recent Level 1 and 2 legislative initiatives aimed at promoting the use of the MIFID II SME Growth Market label. We agree with the Commission’s aim to alleviate administrative burdens and regulatory costs on issuers whilst maintaining investor protection and market integrity.
2. The Commission’s package includes a proposal for a Regulation¹ to introduce targeted Level 1 changes to the Market Abuse (MAR) and Prospectus (PR) Regulations as well as a Level 2 proposal² to amend the Delegated Acts under MiFID II.
3. While we believe that the measures proposed by the Commission are welcome steps in the right direction, Euronext wishes to underline the importance of **ensuring that bond-only issuers** benefit from the Commission’s broad approach to reducing administrative cost for all issuers of securities within the SME Growth Markets.
4. From the Euronext perspective, this is an important element to address particularly as, in our view, the bond and equity markets are rarely distinguished in MAR. This is notably the case for **small bond-only issuers on SME Growth Markets**, which are more affected by regulatory changes than mid-caps or blue chip companies.
5. As a general principle, we would welcome further initiatives from policymakers to **reflect the functioning of different ecosystems, markets and types of products** in the relevant legislation with a view to incentivising small companies to list their bonds on SME Growth Markets.
6. We therefore include overleaf our recommendations, in respect of the proposals on amending MAR and PR Level 1.

¹ Regulation of the European Parliament and of the Council amending Regulations (EU) No596/2014 and (EU) 2017/1129 as regards the promotion of the use of SME growth markets.

² Commission Delegated Regulation amending Commission Delegated Regulation (EU) 2017/565 as regards certain registration conditions to promote the use of SME growth markets for the Directive 2014/65 of the European Parliament and of the Council

B. Commission proposals for Level I amendments to MAR and PR

(i) MAR Disclosure of Inside Information

7. Euronext welcomed the Commission's proposed alleviations to MAR which should reduce the administrative burdens on companies listed on SME Growth Markets, whilst enabling improved liquidity in these capital markets.
8. In particular, it is positive for issuers on SME Growth Markets that explanations for **delaying disclosure of inside information** will only have to be provided upon the request of the NCA following issuer notification, and that all issuers will be allowed to only produce a list of a **limited group of people having regular access to inside information** ('permanent insiders').
9. In contrast, however, the provisions related to **inside information in respect of debt markets** are still, in the experience of Euronext and its bond-only issuers, overly detailed and prescriptive.
10. As noted above, it is generally accepted that MAR was drafted and implemented with equity markets in mind. **However, such a 'one size fits all' approach does not work for debt markets.** In particular, there is a radical difference in secondary market dynamics between debt and equity. We are not aware of any empirical evidence of material market abuse cases within the debt market, so we do not believe there is the same justification to apply equity appropriate compliance requirements on debt issuers.
11. However, increasingly **non-EU issuers** are being advised to seek listings outside the EU, and some notable issuers (e.g. Microsoft and Freddie Mac) have actually delisted from EU markets as a result of the burden of MAR, while others are now seeking alternative ways to raise finance rather than listing on an EU market. Even where issuers are subject to market abuse requirements in their own jurisdictions, they still deem the EU regime too burdensome and seek listings elsewhere. Therefore we believe more needs to be done to strengthen the attractiveness of EU markets by removing some of the more burdensome requirements for issuers of bonds.
12. In particular, we would welcome consideration by policymakers of additional amendments that could be made to **MAR Article 17** to tailor disclosure requirements to bond-only issuers in the SME Growth Markets.
13. Specifically, and with the aim of reducing unnecessary administrative and legal costs for bond-only issuers, we would recommend narrowing the disclosure requirements which are currently unfit for these type of issuers. For example, the test to determine 'significant effect on the prices of financial instruments' is very difficult to apply to the debt market, in contrast to the more liquid equity markets.
14. In our view it would be helpful to introduce an amendment to better frame the disclosure requirements in respect of debt-only issuances. This could be achieved by specifying that the **obligation for them to publish all inside information is limited to such information that would directly influence their ability to meet the repayment obligations of its debt issuances.**
15. Not only would this make SME Growth Markets more attractive for the listing of debt securities to both EU and non-EU issuers, it would also reduce their related costs in maintaining a debt capital markets funding strategy via a tailored regulated regime.

16. In addition, this kind of disclosure would be most relevant to the assessment of risk for this product market - given that bond listings are usually traded less frequently and investors may be more focused on risk spreading and the monitoring of portfolio diversification - without compromising investor protection, as it would provide more focused and meaningful information for a bond investor.

17. We therefore suggest that consideration be given to amending MAR Art 17(1) as follows:

MAR Art 17(1):

1. An issuer shall inform the public as soon as possible of inside information which directly concerns that issuer.

The issuer shall ensure that the inside information is made public in a manner which enables fast access and complete, correct and timely assessment of the information by the public and, where applicable, in the officially appointed mechanism referred to in Article 21 of Directive 2004/109/EC of the European Parliament and the Council. The issuer shall not combine the disclosure of inside information to the public with the marketing of its activities. The issuer shall post and maintain on its website for a period of at least five years, all inside information it is required to disclose publicly.

This Article shall apply to issuers who have requested or approved admission of their financial instruments to trading on a regulated market in a Member State or, in the case of instruments only traded on an MTF or on an OTF, issuers who have approved trading of their financial instruments on an MTF or an OTF or have requested admission to trading of their financial instruments on an MTF in a Member State.

Where an issuer is an issuer exclusively of debt financial instruments admitted to trading on an SME Growth Market, as defined by Article 4 of Directive 2014/65 EU, this Article applies only in respect of the inside information which directly concerns that issuer's ability to meet the repayment obligations of its debt issuances.

(ii) Updating the definition of SME in the Prospectus Regulation (PR) to align with the new amendment in MiFID II Level 2

18. Euronext supports the amended criteria for qualifying as an SME under the MiFID II Level 2 provisions³ as this is more appropriate for debt issuers. However, it is unclear whether this new revised definition will be automatically incorporated within the PR.

19. Therefore, we would suggest that consideration should be given to an amendment to make it fully clear in the PR (Art 2(f)) that the reference to the SME definition in MiFID II includes both definitions distinguishing equity and non-equity as set out in Art 77 of MiFID II Level 2, now being amended by the Commission.

20. Otherwise there is a potential risk that issuers of non-equity that meet the new definition in MiFID II (where the total size of debt issuances does not exceed €50m over a period of 12 months) will not be able to avail of the EU Growth Prospectus regime as set out in the new Prospectus Regulation.

³ Art 77 of Delegated Regulation EU 2017/565

21. We therefore suggest that consideration be given to amending PR Art 2(f)(ii) as follows:

PR Art 2(f)(ii):

(ii) Small and medium enterprises as defined in point (13) of Article 4(1) of Directive 2014/65/EU with reference to Art 77 of Delegated Regulation EU2017/565 as amended.

C. European Parliament draft report proposals for Level I amendments to MAR, PR and MiFID II

22. Euronext welcomes amendment 21 in the draft European Parliament report to **change the definition of equity SMEs in MiFID II** by increasing their qualifying threshold up to EUR 750 million and/or providing for an equity issuer to be defined as an SME when its market capitalisation is below 35% of the average issuer market capitalisation operating in a Member States' Regulated Market.
23. Moreover, the proposed amendments 17 and 18 to the definition of (midcap) issuers eligible for the EU Growth Prospectus in the PR (Art 15) to increase their market capitalisation threshold from EUR 500 million to EUR 1 billion is also positive. In addition, Euronext welcomes the proposal for a 'predictive' market capitalisation criterion for unlisted SMEs which wish to access the SME Growth Markets, making them more attractive for prospective new issuers. This should **incentivize companies' first listings on SME Growth Markets** and make them eligible for the alleviated requirements under the PR in respect of public offers they undertake at this first stage.
24. In regards to the definition of an equity SME, Euronext has consistently proposed that the qualifying threshold for SMEs should be increased from EUR 200 million, as listing statistics from the Euronext markets show that the current threshold is too low and only takes into consideration small enterprises. Taken together, these two proposals would help in strengthening SME Growth Markets' ability to **attract more mid-cap companies** with the **potential to increase liquidity** on these markets.
25. At the same time, Euronext continues to hold reservations concerning **the 'number of employees' criterion** for issuers' access to the SME Growth Market alleviated prospectus, as stated in Article 15 1(c) of the Prospectus Regulation. This clause does not reflect the fact that SMEs from certain industry sectors employ considerably more employees than others as part of their business models (e.g. the food industry, transport and logistics sector). Nonetheless, Euronext notes the proposed amendment to increase the threshold from EUR 20 million to EUR 60 million.