

Document title

# **PROCEDURE FOR VERIFYING COMPLIANCE BY AN ISSUER OF A TRANSFERABLE SECURITY WITH ITS OBLIGATIONS UNDER UNION LAW**

Document type or subject

**EURONEXT REGULATED MARKETS – ISSUERS’ COMPLIANCE**

Revision number

Version 1.0

Date

December 2017

Number of pages

10

Author

Euronext

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All data as of December 2017.

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## **PURPOSE**

The present procedure (hereinafter the “Procedure”) is supplementing the Euronext Rule Book – Book I: Harmonised Rules with certain arrangements that Relevant Euronext Market Undertaking, as operator of Regulated Markets, have put in place in order to verify the compliance of Issuers with obligations under Union law.

The Procedure is intended for Issuers whose Securities are admitted to trading and/or listing on a Regulated Market operated by a Relevant Euronext Market Undertaking.

For the purpose of the Procedure, capitalised terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Euronext Rule Book – Book I : Harmonised Rules.

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## 1. CORE OBLIGATIONS FOR ISSUERS UNDER UNION LAW

According to article 51 (4) of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments (hereinafter “MiFID II”), *“Member States shall ensure that regulated markets have established the necessary arrangements to review regularly the compliance with the admission requirements of the financial instruments which they admit to trading”*.

This article has been completed by article 7.1 of Commission Delegated Regulation (EU) 2017/568 of 24 May 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the admission of financial instruments to trading on regulated markets (hereinafter “RTS 17”), that requires Regulated Markets to *“adopt and publish on their website procedures for verifying compliance by an issuer of a transferable security with its obligations under Union law”*.

### Content of “Union Law”

Pursuant to recital 7 of RTS 17, *“Arrangements by regulated markets in relation to verifying the compliance of issuers with obligations under Union law should cover the obligations laid down in Regulation (EU) No 596/2014 of the European Parliament and of the Council [hereinafter Market Abuse Regulation<sup>1</sup>], Directive 2003/71/EC [hereinafter Prospectus Directive<sup>2</sup>] and Directive 2004/109/EC of the European Parliament and of the Council [hereinafter Transparency Directive<sup>3</sup>] as those legislative acts contain the core and most important obligations for issuers after the initial admission to trading on a regulated market”*.

The Prospectus Directive and the Transparency Directive, as implemented in countries in which Euronext operates, set out the rules regarding public offerings of financial instruments, prospectuses and on-going disclosure requirements for listed companies.

The Transparency Directive require the disclosure of major holdings of all financial instruments that could be used to acquire economic interest in listed companies, and have the same effect as holdings of equity. It also provides for more harmonisation concerning the rules of notification of major holdings, in particular by requiring aggregation of holdings of financial instruments, with holdings of shares for the purpose of calculation of the thresholds that trigger the notification requirement.

The Market Abuse Regulation (‘MAR’) aims at increasing investor protection and market integrity. MAR provisions are intended to prevent insider dealing, disclosure of inside information and market manipulation.

These legislative acts have been transposed and integrated in the national laws where the Relevant Euronext Market Undertakings operate.

However, it has to be highlighted that none of these EU texts designate the market undertakings as recipients of regulated information nor to any control procedure that have to be taken into account. The control of the core and most important requirements is above all ensured by Competent Authorities, i.e. national public authority or self-regulatory body, having jurisdiction in the supervision of the provisions laid down in these acts.

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<sup>1</sup> Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC.

<sup>2</sup> Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC.

<sup>3</sup> Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC.

*Core obligations for issuers under Union law*

Euronext has chosen to implement these EU provisions through its Rule Books. These Rule Books require from issuers certain obligations that are necessary to maintain the fair and orderly functioning of the market including certain disclosures to inform market participants and investors. Euronext Markets are governed by harmonised and non-harmonised Rule Books that are implemented and interpreted through Notices (the “Rules”). More specifically, Chapter 6 of Book I sets forth:

1. the requirements and procedures for the admission to listing and delisting of Securities
2. the listing measures that can be taken to facilitate the fair, orderly and efficient operation of the markets
3. the continuing obligations of Issuers whose Securities are admitted to listing with their consent (including, without limitation; informing the Relevant Euronext Market Undertaking of corporate and securities events).

The present Procedure highlights that Issuers are informed upon admission that they have to comply with their obligations under Union law<sup>4</sup>. Also, at issuers’ request, Euronext may remind them of such obligations. In order to achieve this, Euronext has deployed many means to contribute to issuers’ awareness of their obligations at the admission and on an ongoing basis. These include; a dedicated website section where issuers may find relevant legal requirements, post information for investors and shareholders, brochures and vade-mecum with detailed and updated information, and a call centre with experts who can help issuers).

The present Procedure is also supplementing the Rules with certain arrangements that Euronext has put in place to verify compliance with Union Laws as defined above<sup>5</sup>. The Procedure does not aim to supersede the tasks and responsibilities of the national Competent Authorities, in the enforcement of legislative acts mentioned above.

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<sup>4</sup> Rule 6103B states, as a general rule, that : *“Issuers must comply with the disclosure and reporting obligations pursuant to Union law to ensure transparency for investors and market integrity”*.

<sup>5</sup> Rule 1501 of the Rules already states that : *“Euronext Market Undertakings are required, pursuant to National Regulations, to: (...) (ii) establish and maintain effective arrangements and procedures for the regular monitoring of the compliance with the Rules by Members and Issuers; (...)”*.

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## 2. INITIAL LISTING REQUIREMENTS

The requirements and procedures for the admission to listing of Securities are mainly included in the first sections of Chapter 6 of the Rules<sup>6</sup>, and in the application form that has to be provided at the time of admission. These provisions make Issuers aware of their obligations under Union law, notably with respect to the Prospectus.

### Content of initial listing requirements

In accordance with Rule 6.5 (General documentation to be furnished at the time of the application) of the Rules, any Issuer requesting their securities be admitted to listing and trading on Euronext regulated markets has to provide the Relevant Euronext Market Undertaking with certain documents, including copies of the prospectus (or equivalent disclosure document) issued by the Issuer in connection with the application for listing, and each draft version of such prospectus (or equivalent disclosure document)<sup>7</sup>.

This is confirmed in the application form to be signed by the issuer and provided at the time of the application. In particular, article 7.1 of the application form states that the applicant shall provide the Relevant Euronext Market Undertaking, with the prospectus or document published pursuant to the relevant provision of European Directive 2003/71/EC, and copies of the financial statements<sup>8</sup>.

In addition, the application form that has to be provided and signed by an issuer at the time of admission, which is available on the Euronext website, comprises a section 5 “Undertaking of the issuers”, where issuers must confirm that they will comply with the legal and regulatory obligations. With respect to Union law, the first two undertakings mention the following:

1. We confirm that we have taken all required steps to comply with National Regulations, and in particular any obligations relating to prospectuses, and undertake to adhere to all initial, periodic, and continuing obligations ensuing from such regulations. We confirm that we have complied and will comply with any applicable obligation, including any disclosure obligation ensuing from EU rules on transparency and market abuse.
2. If the present application for admission of Equity Securities to listing/trading is not subject to the requirement to publish a prospectus pursuant to the Prospectus Directive, or any other regulation relating to the production and content of prospectuses, we confirm under paragraph 7 of this Application Form the legal justification for this non-publication, and we confirm that we hereby assume liability for any loss that may accrue to any party as a result of any misinterpretation on our part, as to the applicability or otherwise of the Prospectus Directive, or any other regulation relating to the production and content of prospectuses.

### Procedure to verify compliance of issuers with initial listing requirements

In accordance with rule 6.3 of the Harmonised Rules, the Relevant Euronext Market Undertaking shall approve or refuse the application for admission to listing within a maximum period of thirty days, taking into consideration that the period shall begin as of the date it has received a complete set of the documentation and the information required pursuant to rule 6.5 and/or rule 6206 (i.e. receipt of the draft prospectus containing information about the issuer, its business and historical financial information). In order to verify the compliance of Issuers with these obligations, Euronext has a dedicated team – Listing Execution Team - to review the files of a company which aims to be listed on its regulated markets. Each file is reviewed by the team to assess its consistency with the initial listing rules. Based on the study of the file, the Listing Execution Team provides recommendations on whether the company should be listed

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<sup>6</sup> See in particular Rules 6.2 (Application procedure), 6.3 (Decision by the relevant Euronext market undertaking); 6.4 (Grounds for refusal), 6.5 (General documentation to be furnished at the time of the application), 6.6 (General listing requirements for securities) and 6.7 (Additional listing requirements per category of securities) of the Rules

<sup>7</sup> See Rule 6501 (iii).

<sup>8</sup> In accordance with rule 6301 of the Rules, the Relevant Euronext Market Undertaking shall not take any decision in respect of an application for admission to listing before it has received a complete set of the documentation and the information required pursuant to rule 6.5 (i.e. receipt of the draft prospectus containing information about the issuer, its business and historical financial information).

*Initial listing requirements*

or not, on a case-by-case basis. Additionally, the Compliance team may also provide recommendations whenever the listing of the company might challenge the fair and orderly functioning of the market or the reputation of Euronext as a whole.

The Relevant Euronext Market Undertaking may refuse an application for admission to listing of a Security, on any appropriate ground, including (without limitation);

- (i) the Applicant does not meet one or more of the requirements imposed by or pursuant to Chapter 6, or any applicable National Regulations,
- (ii) it considers that the admission to listing of the Securities may be detrimental to the fair, orderly and efficient operation of the Euronext Securities Market, or to the reputation of Euronext as a whole,
- (iii) a Security is already admitted to listing on another market, and the Issuer has not complied or does not comply with the obligations resulting from such admission to listing,
- (iv) the Issuer, any of its board members (including supervisory board members), or its beneficial owners are on the EU Sanction List or the list drawn up by the Office of Foreign Assets Control (OFAC).

### 3. ONGOING OBLIGATIONS

Most of the core and ongoing obligations of issuers are imposed by the Market Abuse Regulation, the Prospectus Directive, and the Transparency Directive, as transposed in national laws. They are also directly supervised and monitored by the relevant Competent Authorities. As stated previously, some of these EU provisions are implemented in Euronext Rule Books and require from issuers to fulfil certain obligations necessary to maintain the fair and orderly functioning of the market, including certain disclosures to inform market participants and investors.

#### Content of on-going obligations

The continuing obligations of Issuers whose Securities are admitted to listing, are mainly included in Rule 6.10 (Ongoing obligations). Rule 61001/1 explicitly makes the Issuers aware of their obligations under Union law by stating that; *“Each Issuer must meet the obligations set forth in this Rule 6.10 as long as its Securities are admitted to listing. The Relevant Euronext Market Undertaking may further detail those obligations in one or more Notices. For the avoidance of doubt, none of the obligations set out in this Rule 61001 shall exempt the Issuers from complying with the disclosure or reporting obligations pursuant to National Regulations and Union law.”*

As a reminder, the first undertaking of section 5 of the application form requires issuers to confirm that they have taken all required steps to comply with National Regulations (including Union law), and undertake to adhere to all periodic and continuing obligations ensuing from such regulations. They must also confirm that they have complied and will comply with any applicable obligation, including any disclosure obligation ensuing from EU rules on transparency and market abuse.

Euronext is also in charge to implement Corporate Actions rules as foreseen in the Euronext Rule Book I Harmonised Rules. Issuers must transmit to Euronext any information relating to operations on securities in due time and before the event or operation on securities occurs, in order to allow Euronext to take all appropriate measures. The main obligations for issuers with regards to Corporate Actions are:

# rules	Text of the rules (summarised content)
61002/1	When additional Securities of the same class as Securities already admitted to listing are issued, application for admission to listing of such additional Securities shall be made as soon as they are issued in the case of a public offering of Securities; and no later than ninety (90) days after their issue in cases other than a public offering.
61003/2	Communicate to Euronext all information which (i) may impact the fair, orderly and efficient functioning of the markets operated by the Relevant Euronext Market Undertakings or (ii) may modify the price of its Securities (ultimately) at the same time at which such information is made public.
61004/1	Communicate to Euronext corporate or securities events in respect of its Securities admitted to listing in order to facilitate the fair, orderly and efficient functioning of the market.
61004A	An Issuer shall take all necessary measures to have its LEI active for as long as its financial instruments are admitted to trading on a Euronext Securities Market.

Any obligation for issuers to provide documentation to the Relevant Euronext Market Undertaking as set forth in the Rule Book is for the sole purpose to allow it to perform its functions and meet its responsibilities. In reviewing this documentation, the Relevant Euronext Market Undertaking solely performs controls on the technical information allowing to operate the market. None of the obligations exempt the Issuer from providing the same documentation to the Competent Authority.

Ongoing obligations

**Procedure to verify compliance of issuers with the on-going obligations**

Implementation of those rules is carried out by Market Surveillance Departments of Euronext group. This department operates as follow:

For the Operation of Regulated Markets, MiFID, MAR, ESMA standards, and the Euronext Rulebooks, provide minimum requirements for monitoring of trading and enforcement of rules by Euronext as the operator of regulated markets. In particular, market operators are required to meet inter alia, all the requirements set out in MiFID (and reinforced in MAR), including the obligation to ensure that the markets they operate allow financial instruments to trade “in a fair, orderly and efficient manner”. To this end, Euronext has set up a framework to organise market monitoring by which it:

- monitors trading in order to identify breaches of the rules, disorderly trading conditions, or conduct that may involve market abuse;
- reports breaches of rules or of legal obligations, relating to market integrity to the competent authority

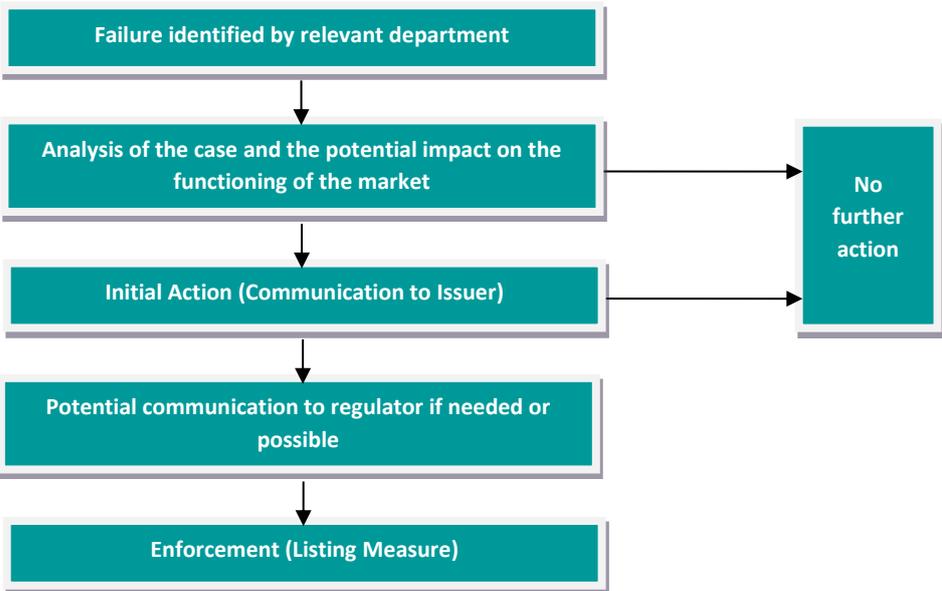
Market surveillance and monitoring are implemented through a two-step process, consisting of real-time market surveillance (Euronext Market Services) and post-trade (i.e. “next day”) analysis of executed trades (Member compliance department). Euronext ensures member compliance with its rules by conducting on-site investigations and inspections.

In order to verify the compliance of Issuers with their obligations, Euronext Market Services has a dedicated department in charge of processing corporate actions. Issuers’ Corporate actions are processed according to the Rules.

The Risk and Internal Control team reviews risks and procedures of Euronext Market Services and Corporate Actions to monitor changes.

The Internal Audit department performs a periodic control on all functions of Euronext, including but not limited to Corporate Actions and Euronext Market Services.

In case a failure to comply with the above mentioned rules is identified by the relevant department, the following process will apply :



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## **4. POTENTIAL LISTINGS MEASURES IN CASE OF NON-COMPLIANCE**

According to Rule 6.9 (Listing Measures) of the Rules, Euronext may take any appropriate and proportionate measures in respect to the Financial Instruments admitted to listing, on a Euronext regulated Market, as it deems necessary to facilitate the fair, orderly, and efficient operation of its markets. Euronext will inform the relevant Issuer on any measure taken by it, as soon as possible.

Additionally, the Relevant Euronext Market Undertaking shall, in case it has serious indications of a potential infringement by an Issuer of National Regulations in respect of any initial or on-going listing obligations, report the matter to the relevant Competent Authority as soon as possible<sup>9</sup>.

Subject to National Regulations, Euronext may take the following measures;

- (i) impose specific conditions upon the Issuer to ensure that the obligations imposed and the requirements set pursuant to this Chapter 6, in any Notices or the Application Form, are being complied with,
- (ii) allocate a Security to a specific compartment,
- (iii) list a Security with a special indicator,
- (iv) issue a notice informing the market that an Issuer does not comply with its obligations set forth in the Rules,
- (v) suspend the trading of a Security,
- (v) delist the relevant Securities.

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<sup>9</sup> Pursuant to Rule 6107 of the Harmonised Rulebook