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| Reply form for the Consultation Paper on the Algorithim Trading |

**Responding to this paper**

ESMA invites comments on all matters in this consultation paper and in particular on the specific questions summarised in Annex I. Comments are most helpful if they:

* respond to the question stated;
* indicate the specific question to which the comment relates;
* contain a clear rationale; and
* describe any alternatives ESMA should consider.

ESMA will consider all comments received by **12/03/2021.**

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input - Consultations’.

**Instructions**

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the present response form.
2. Please do not remove tags of the type <ESMA\_QUESTION\_ALGO\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
4. When you have drafted your response, name your response form according to the following convention: ESMA\_ALGO\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_FOTF\_ABCD\_RESPONSEFORM.
5. Upload the form containing your responses, in Word format, to ESMA’s website ([www.esma.europa.eu](http://www.esma.europa.eu) under the heading “Your input – Open consultations” 🡪 “Consultation on Algorithmic Trading”).

**Publication of responses**

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publically disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA’s rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

**Data protection**

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading [Legal Notice](http://www.esma.europa.eu/legal-notice).

**Who should read this paper**

This document will be of interest to (i) alternative investment fund managers, UCITS management companies, EUSEF managers and/or EuVECA managers and their trade associations, (ii) distributors of UCITS, alternative investment funds, EuSEFs and EuVECAs, as well as (iii) institutional and retail investors investing into UCITS, alternative investment funds, EuSEFs and/or EuVECAs and their associations..

**General information about respondent**

|  |  |
| --- | --- |
| Name of the company / organisation | Euronext |
| Activity | Regulated markets/Exchanges/Trading Systems |
| Are you representing an association? |[ ]
| Country/Region | Europe |

**Introduction**

***Please make your introductory comments below, if any***

<ESMA\_COMMENT\_ALGO\_1>

Euronext is a pan-European market infrastructure, operating regulated equity and derivatives markets in Belgium, France, Ireland, The Netherlands, Norway and Portugal. Euronext is the largest centre for debt and funds listings in the world. In addition, Euronext provides custody and settlement services through central securities depositories in Denmark, Norway and Portugal.<ESMA\_COMMENT\_ALGO\_1>

**Questions**

1. : What is your overall assessment of the MiFID II framework for algorithmic trading, HFT and DEA?

<ESMA\_QUESTION\_ALGO\_1>

Euronext generally agrees with the MiFID II framework for algorithmic trading, albeit with reservations and proposals in answers to the subsequent questions. <ESMA\_QUESTION\_ALGO\_1>

1. : In your views, are there risks other than the one mentioned in MiFID II or impacts on market structure developments due to market electronification/ algorithmic trading that would deserve further regulatory attention? Please elaborate.

<ESMA\_QUESTION\_ALGO\_2>

It would appear that there are no substantial risks other than the ones mentioned in MiFID II nor impacts on market structure developments due to market electronification/algorithmic trading that would deserve further regulatory attention. <ESMA\_QUESTION\_ALGO\_2>

1. : Do you consider that the potential risks attached to algorithmic trading should also be given consideration in other trading areas? Please elaborate.

<ESMA\_QUESTION\_ALGO\_3>

Euronext believes that, although the current policy debate on algorithmic trading is focused on the trading venue/multilateral space, the potential risks attached to algorithmic trading in the bilateral space should also be given consideration to prevent any additional risk that could arise in the future. Indeed, it is our view that when considering potential risks attached to algorithmic trading, trading behaviors should be taken into account regardless of where the trading takes place.<ESMA\_QUESTION\_ALGO\_3>

1. : Do you agree with this analysis? If not, please explain why.

<ESMA\_QUESTION\_ALGO\_4>

In our view, a DEA client does not have to be MiFID licensed only because it is acting as a DEA client as the DEA provider retains its responsibility to have proper design and risk controls under Article 17 of MiFID II and to carry out the relevant due diligence on its clients under RTS 6. This provides appropriate oversight and is an effective mitigant with respect to any perceived risks arising out of a chain involving DEA and algorithmic activity. For the non-EU DEA provisions, we refer to our answer under Q10.<ESMA\_QUESTION\_ALGO\_4>

1. : Did you encounter any specific issue with the definition of HFT? Do you consider that the definition should be amended? Do you have any suggestion to replace the high message intraday rates with other criteria or amend the thresholds currently set in Level 2? Please elaborate and provide data supporting your response where available.

<ESMA\_QUESTION\_ALGO\_5>

Euronext has not encountered major issues with the definition of HFT and does not consider that the definition should be amended. <ESMA\_QUESTION\_ALGO\_5>

1. : Based on your experience, is sub-delegation of DMA access a frequent practice? In which circumstances? Which benefits does it provide to the DEA user and to the sub-delegatees? Are you aware of sub delegation arrangements in the context of Sponsored access? If so, please elaborate.

<ESMA\_QUESTION\_ALGO\_6>

NA

<ESMA\_QUESTION\_ALGO\_6>

1. : (for DEA Tier 1clients) Do you sub-delegate direct electronic access? If so, are your Tier 2 clients typically regulated entities/investment firms? Are they EU-based or third country based?

<ESMA\_QUESTION\_ALGO\_7>

NA

<ESMA\_QUESTION\_ALGO\_7>

1. : Do you agree with this analysis? If not, please explain why. Do you consider that further clarification is needed in this area? If so, what would you suggest?

<ESMA\_QUESTION\_ALGO\_8>

Euronext agrees with ESMA’s analysis. Euronext also concurs with ESMA’s view that retail clients are not considered to perform investment activities on a professional basis and should therefore not be required to be authorised as an investment firm. For clients categorised as retail clients under MiFID II, the due diligence procedure should ensure that statutory investor protection and know-your-client requirements are met, that the service provided is suitable for the client and that the client is reasonably informed of the terms of the services and the applicable rules and restrictions with regards to it.<ESMA\_QUESTION\_ALGO\_8>

1. : Do you agree with ESMA’s proposal? If so, do you consider that the requirements considered above relevant? Should there be additional ones? If you disagree with ESMA’s proposal, please explain why.

<ESMA\_QUESTION\_ALGO\_9>

Euronext believes that, although the current policy debate on algorithmic trading is focused on the trading venue/multilateral space, the potential risks attached to algorithmic trading in the bilateral space should also be given consideration to prevent any additional risk that could arise in the future. Indeed, it is our view that when considering potential risks attached to algorithmic trading, trading behaviors should be taken into account regardless of where the trading takes place.<ESMA\_QUESTION\_ALGO\_9>

1. : Do you agree with ESMA’s proposals above? Please elaborate.

<ESMA\_QUESTION\_ALGO\_10>

Euronext agrees with ESMA’s proposal to remove the obligation for DEA clients trading on own account to be authorised as investment firms. We agree with ESMA that the costs of requiring full authorisation of a person dealing on own account as an investment firm for the sole purpose of having DEA access, including as a Tier 1 client, outweigh the benefits expected from such authorisation. We agree that the regulatory framework allows the DEA provider to safeguard market access.

However, we do not agree with ESMA’s proposal to introduce a requirement for third-country firms to be authorised as an investment firm when they qualify as an HFT firm on an EU trading venue. This is because the current regulatory framework ensures the key algorithmic trading provisions of MiFID II are applied to all those participants, whether EU or non-EU. <ESMA\_QUESTION\_ALGO\_10>

1. : Do you agree with ESMA’s proposal? Please elaborate.

<ESMA\_QUESTION\_ALGO\_11>

NA

<ESMA\_QUESTION\_ALGO\_11>

1. : Do you see merit in ESMA developing a template for notifications to NCAs under Articles 17(2) and 17(5) of MiFID II? If not, please justify your position.

<ESMA\_QUESTION\_ALGO\_12>

NA

<ESMA\_QUESTION\_ALGO\_12>

<ESMA\_QUESTION\_ALGO\_0>

NA

<ESMA\_QUESTION\_ALGO\_0>

1. : Do you agree that it would be useful to clarify that notifications should be done ‘without undue delay’?

<ESMA\_QUESTION\_ALGO\_13>

NA

<ESMA\_QUESTION\_ALGO\_13>

1. : Do you agree with ESMA’s approach for the exchange of information between NCAs? If not, please justify your position.

<ESMA\_QUESTION\_ALGO\_14>

NA

<ESMA\_QUESTION\_ALGO\_14>

1. : What is your view on clarifying the definition of algorithmic trading? If you deem it beneficial to refine the definition and account for further types of algorithms or algorithmic trading strategies, please provide your suggestion as well as underlying rationale.

<ESMA\_QUESTION\_ALGO\_15>

NA

<ESMA\_QUESTION\_ALGO\_15>

1. : Do you think there should be specific requirements for different type of algorithms or algorithmic trading strategies in RTS 6? Please explain.

<ESMA\_QUESTION\_ALGO\_16>

NA

<ESMA\_QUESTION\_ALGO\_16>

1. : What is your experience with testing environments? Are they used frequently? If not, why? Do you see a need for any improvements?

<ESMA\_QUESTION\_ALGO\_17>

NA

<ESMA\_QUESTION\_ALGO\_17>

1. : Do you agree that the definition of “disorderly trading conditions” should be clarified? If yes, how would you define such trading conditions?

<ESMA\_QUESTION\_ALGO\_18>

NA

<ESMA\_QUESTION\_ALGO\_18>

1. : Do you agree that ESMA should provide additional guidance on the expectations concerning the checks and testing to be done, in particular for testing on disorderly trading conditions?

<ESMA\_QUESTION\_ALGO\_19>

NA

<ESMA\_QUESTION\_ALGO\_19>

1. : Would you agree that it could be beneficial if ESMA develops a prescribed format for the self-assessment foreseen in Article 9 of RTS 6?

<ESMA\_QUESTION\_ALGO\_20>

NA

<ESMA\_QUESTION\_ALGO\_20>

1. : Do you agree with the changes proposed to the self-assessment of Article 9 of RTS 6?

<ESMA\_QUESTION\_ALGO\_21>

NA

<ESMA\_QUESTION\_ALGO\_21>

1. : Would you propose any other targeted legislative amendments to RTS 6? Please include a detailed explanation of the proposed amendment and of the underlying issue that this amendment would aim to tackle.

<ESMA\_QUESTION\_ALGO\_22>

NA

<ESMA\_QUESTION\_ALGO\_22>

1. : Do you agree with ESMA’s proposal to harmonize and create a clear structure for the performance of the self-assessment?

<ESMA\_QUESTION\_ALGO\_23>

Euronext agrees that more convergence with respect to the self-assessment would be welcome. Harmonization of the performance self-assessment, with a predefined structure, would assist us in fulfilling NCA requirements.<ESMA\_QUESTION\_ALGO\_23>

1. : Do you agree with limiting the self-assessment to every two years and to require trading venues to share it with their relevant NCA?

<ESMA\_QUESTION\_ALGO\_24>

Euronext agrees that two years seems reasonable and supports sharing the assessment with its NCAs. <ESMA\_QUESTION\_ALGO\_24>

1. : Do you agree with ESMA’s analysis about the overlapping requirements between RTS 6 and 7? Are those overlaps considered beneficial, should they be removed or are there any gaps? Are there any further points that should be clarified?

<ESMA\_QUESTION\_ALGO\_25>

Euronext agrees that overlapping requirements might be reconsidered. It is important to note that algo codes are developed and owned by the trading member. Testing of these codes should remain the primary responsibility of the algo trader. Conducting and managing algorithm trading testing to avoid disorderly trading conditions should fall under the investment firm’s responsibility, as outlined in RTS 6. Providing a solid, reliable and resilient testing platform for algorithmic trading testing purposes should fall under the trading venue responsibility, as per RTS 7.<ESMA\_QUESTION\_ALGO\_25>

1. : What is your view with regards to the testing of algorithms requirements? Do you agree that more robust testing scenarios should be set?

<ESMA\_QUESTION\_ALGO\_26>

No, we do not see the need for more robust testing scenarios. Euronext agrees with the current trading algorithm testing requirements. Euronext already provides a solid TEST platform (more details are provided in our next answer to Question 27) as well as a fine-tuned assistance to members that require support. <ESMA\_QUESTION\_ALGO\_26>

1. : Are the testing environments available for the testing of algorithms appropriate for this purpose?

<ESMA\_QUESTION\_ALGO\_27>

The current testing environment Euronext offers, already proposes two separate and robust platforms:

- A VEUA (Virtual External User Acceptance) (TEST) platform, which onboards the same trading application version as our Production (PROD) platform; and,

- A PEUA (Physical External User Acceptance ) (TEST) platform, which onboards the next release version of our trading platform (including new projects/trading features not live in PROD yet).

This dual approach meets trading members’ needs as they are able to test and develop trading algorithms based on the current production version whilst also anticipating the next release. In addition, Euronext offers a trading activity animation tool, the main purpose of which is to provide liquidity on our TEST platform. In addition, Euronext also frequently simulates Fail-Over (High Availability) scenarios on its resilient TEST trading platform so that members are able to test their own recovery features. Last but not least, a dedicated team (Operational Client Support) is available for any assistance/support if required by the trading members.<ESMA\_QUESTION\_ALGO\_27>

1. : Do you agree with ESMA’s analysis that the circuit breaker mechanism achieved its objective to avoid significant disruptions to the orderliness of trading?

<ESMA\_QUESTION\_ALGO\_28>

Ahead of the entry into force of MiFID II, Euronext introduced circuit breakers for each asset class, based on the liquidity and market model of the instruments. Euronext agrees with ESMA's analysis of circuit breakers. The current regime has been in effect since MiFID II came into force and we have not seen any significant disruptions to orderly trading and do not consider any need to modify the regime.<ESMA\_QUESTION\_ALGO\_28>

1. : Do you agree that the requirements under Article 48(5) of MiFID II complemented by RTS 7 and the guidelines on the calibration of circuit breakers and publication of trading halts under MiFID II remain appropriate? If not, what regulatory changes do you deem necessary?

<ESMA\_QUESTION\_ALGO\_29>

Euronext fully agrees with ESMA that the requirements under Article 48(5) of MiFID II complemented by RTS 7 and the guidelines on the calibration of circuit breakers and publication of trading halts under MiFID II remain appropriate. The circuit breakers are defined according to the liquidity and the market model of trading venues. The calibration of the circuit breakers for the same instruments can differ from one trading venue to another. As such, and given that circuit breakers are based on the liquidity of the market and are triggered by the orders sent to the order book of the respective trading venue, there is no rational to interlink markets.<ESMA\_QUESTION\_ALGO\_29>

1. : Do you agree that the co-location services and fees structures are fair and non-discriminatory? Please elaborate.

<ESMA\_QUESTION\_ALGO\_30>

Euronext agrees that, as per Article 48 of MiFID II and RTS 10, co-location services and fees are transparent, fair, and non-discriminatory. Euronext provides information about services and related prices in a transparent manner and publicly on its website. <ESMA\_QUESTION\_ALGO\_30>

1. : Do you think that the disclosures under RTS 10 made by the trading venues are sufficient or should they be harmonized among the different entities? Please explain.

<ESMA\_QUESTION\_ALGO\_31>

Euronext generally agrees with the compliance assessment of fee structures and related disclosures by trading venues conducted by ESMA and NCAs. Euronext believes that disclosures of services as set out by RTS 10 are sufficient and services and related prices are publicly available on trading venues’ websites. Euronext does not believe that harmonisation among different entities would be required. Rather trading venues should have some discretion for individual descriptions of services and related fees as they might offer different services.<ESMA\_QUESTION\_ALGO\_31>

1. : Do you agree with ESMA’s proposal to set out the maximum OTR ratio, calibrated per asset class?

<ESMA\_QUESTION\_ALGO\_32>

Euronext welcomes ESMA’s objective to ensure a consistent level of protection across trading venues. However, we see issues in setting a one-size-fits-all regime for OTR per asset class. We believe that the maximum allowed OTR should be based on an assessment related to trading venues’ and members’ system capacity, latency considerations, excessive market data flows, etc. to safeguard orderly and sound trading activity. Any OTR must ensure the highest level of market integrity and be relevant to the instrument that is being traded. Each trading venue must be allowed to set the OTR per instrument based on its knowledge of the local market and trading data in order to ensure that the ratios are relevant and kept up to date. Any methodology to calculate these ratios must take into consideration the specific type of instrument as well as other market specifics, such as the liquidity of the platform. The ratio does not have to be the same, even for the same financial instruments, on all the platforms where the instrument is traded, considering that each market has its own characteristics.<ESMA\_QUESTION\_ALGO\_32>

1. Q33: Do you agree that the maximum limits are not frequently exceeded? Please explain any potential underlying issues in this respect that should be recognised.

<ESMA\_QUESTION\_ALGO\_33>

Euronext does not see underlying issues with maximum limits not being frequently exceeded. This observation is rather the result of a profound analysis of trading activity of all trading participants per asset class. Maximum limits are therefore set in a way that penalises outliers but does not artificially affect regular trading activity, thereby ensuring market integrity and system resilience in line with the objective of the OTR regime. In addition, trading venues have installed additional layers of defense warning which acts to slow down participants reaching the limits. Further, trading participants themselves often monitor and control their message flow to avoid exceeding the limits being mindful of the consequences of any breach. However, we see some underlying issues in the current OTR regime. These relate to the counting methodology: it appears that there are different interpretations of the Annex to RTS 9 on how certain types of order modifications are counted. For cases when original order volume is reduced, it appears some venues treat this as one order, and others treat it as two. Until these discrepancies are resolved, a common approach as proposed by ESMA might lead to an unlevel playing field.<ESMA\_QUESTION\_ALGO\_33>

1. : Do you agree with the consequences as described of exceeding the maximum limits or should there be a more convergent approach? Please provide any comment or suggestion regarding the procedures in place by trading venues in case of a member exceeding the prescribed limit.

<ESMA\_QUESTION\_ALGO\_34>

Euronext agrees with the described consequences. The consequences of exceeding the maximum OTR limit depend on the implementation in national law and are implemented in the respective trading venue rules. A violation of the maximum OTR limit might trigger sanctioning procedures, including warnings, penalties, or the exclusion from trading.<ESMA\_QUESTION\_ALGO\_34>

1. : Do you agree with the need to improve the notification process in case of IT incidents and system outages? Beyond the notification process between NCAs and ESMA, which improvements could be done regarding communication of incidents to the public?

<ESMA\_QUESTION\_ALGO\_35>

Exchanges play an important role in supporting the stability of the financial system and are taking several measures to build upon their resilience to protect their systems. In line with the MiFID II/MiFIR requirements, Euronext has established well-functioning procedures of communication to customers and notification to the respective NCAs in case of IT incidents or outages.

In this context, Euronext welcomed the recent proposal, from the European Commission, for a Regulation on Digital Operational Resilience for the Financial Sector (DORA) which already aims at introducing a consistent and streamlined approach for the financial sector as regards IT incident classification, notification towards authorities, and communication to customers and the public. This also includes the establishment of information and coordination procedures between relevant authorities on the national and EU level. Such cooperation between Member States would increase the efficiency and efficacy of the overall ecosystem resilience.

Therefore, Euronext supports the harmonised reporting process to NCAs established by DORA which improves efficiency and aims at swiftly addressing critical incidents. However, changing the approach to create a centralised reporting structure, while seemingly an attractive option because of the uniformity, might introduce issues due to lack of familiarity and understanding of local markets. Any proposal should carefully consider the possible market impact, taking also into account the differences between trading venues. Disproportionate regulatory approaches should be avoided.<ESMA\_QUESTION\_ALGO\_35>

1. : Do you believe any initiative should be put forward to ensure there is more continuity on trading in case of an outage on the main market, e.g. by requiring algo traders to use more than one reference data point?

<ESMA\_QUESTION\_ALGO\_36>

No, Euronext does not believe that requiring algorithmic traders to use more than one reference point would ensure continuity of trading in case of an outage on the main market.

In the event of a primary market outage and consequent loss of the reference price, market makers will often not be willing to risk trading in other venues. For this reason, requiring algo traders to use more than one reference data point, or any such initiative, would not actually result in migrations of volumes to other trading venues which remain open for trading in the event of an outage. Indeed, market makers anticipate that prices may settle at a very different level post outage and will therefore avoid making prices without information from the primary market. <ESMA\_QUESTION\_ALGO\_36>

1. : Do you agree with the view that the tick size regime had overall a positive effect on market depth and transaction costs?

<ESMA\_QUESTION\_ALGO\_37>

Euronext agrees with ESMA that the tick size regime had a beneficial effect in terms of harmonisation. <ESMA\_QUESTION\_ALGO\_37>

1. : Is there any further issue you would like to highlight regarding tick size regime?

<ESMA\_QUESTION\_ALGO\_38>

From a level playing field perspective Euronext would encourage policymakers to look into how the tick size regime is being applied to Systematic Internalisers (Sis) and MTFs (specifically RFQ MTFs) in practice. <ESMA\_QUESTION\_ALGO\_38>

1. : Do You agree with the proposal not to amend the tick size regime for third country shares? Please explain.

<ESMA\_QUESTION\_ALGO\_39>

NA

<ESMA\_QUESTION\_ALGO\_39>

1. : Do you agree with the proposal to widen the scope of the tick size regime to all ETFs? Would this pose challenges in your view? Please explain.

<ESMA\_QUESTION\_ALGO\_40>

Yes, Euronext would agree with the proposal to widen the scope of the tick size regime to all ETFs. Currently trading venues do not necessarily have information regarding the exact list of constituents making it difficult for them to differentiate between those ETFs that are subject to the regime and those that are not. This proposed change would clarify the regime. <ESMA\_QUESTION\_ALGO\_40>

1. : Do you agree with the proposal not to widen the scope of the tick size regime to non-equity instruments? Please explain.

<ESMA\_QUESTION\_ALGO\_41>

Euronext agrees with ESMA's proposal not to extend the tick size regime to non-equity instruments. We find this extension unnecessary considering the particular characterisitics of these instruments and the microstructure of the different markets in which they may be traded, making it difficult to apply standardised measures such as the tick size.<ESMA\_QUESTION\_ALGO\_41>

1. : Do you agree with ESMA findings and assessment of the current MiFID II market making regime?

<ESMA\_QUESTION\_ALGO\_42>

Euronext agrees with ESMA’s analysis that the MiFID II / MiFIR market making regime has contributed to a more stringent framework. However, Euronext would note that, due to adverse selection, no incentives will outweigh the risk in stressed markets. Therefore, incentives might have an insignificant impact on market making behavior during stressed market conditions. Market conditions, rather than incentives, drive market making behavior. In light of this, it would make sense for the concept of stressed market conditions, if there is no incentive attached to it, to be removed altogether. <ESMA\_QUESTION\_ALGO\_42>

1. : What do you think of ESMA proposals and suggested amendments to RTS 8? In your view, what other aspects of the market making regime require to be amended and how?

<ESMA\_QUESTION\_ALGO\_43>

Euronext agrees with the proposal to limit market making registration to continuous trading only where there is no human intervention and where market making strategies are used. However, Euronext does not support the proposal to expand the obligation to have market making schemes for all instruments and types of trading systems. Trading venues should have the discretion to assess for which instruments and markets such schemes are suitable and can help increase liquidity and thereby implement marking making schemes on instruments for which it makes sense. Euronext does not support the proposals to have incentives for non-liquid markets or to have fee rebates only for the best liquidity providers. Rather, Euronext recommends removing the obligation for trading venues to offer market making schemes, as these have proven to be ineffective, especially in stressed market conditions (please see also our answer to Q42).

Exchanges operate Liquidity Provider programs and market making schemes for the good of their markets in order to improve liquidity and the overall attractiveness of their books in a competitive environment. As such, exchanges are best suited to assess the market making agreements and schemes which are most relevant for their activities and customers. We do not see the added value of having market making schemes in the auction space. Market making schemes should be limited to the continuous trading session only. <ESMA\_QUESTION\_ALGO\_43>

1. : What are market participants views regarding the flexibility left in the MiFID II market making regime? Would you agree with ESMA further clarifying certain relevant concepts? If yes, which ones?

<ESMA\_QUESTION\_ALGO\_44>

Euronext believes that market making schemes and incentives should be set generally without any distinction between different market conditions. Compensation of market risks in stressed market conditions by means of setting incentives stands in contrast to trading venues’ neutrality to ensure fair and orderly price finding as they should not be exposed to market risks linked to trading strategies. As stated by ESMA, discretion is essential to allow trading venues to adapt the rules to the nature and scale of their activity and consequently be proportional. Therefore, the discretion to define market making agreements and schemes should remain with the trading venues: we do not see the need for further clarification.

Exchanges operate Liquidity Provider programs and market making schemes for the good of their markets in order to improve liquidity and overall attractiveness of their books in a competitive environment. It is clearly not in the interest of exchanges to incentivize negative behavior. Discretion to define market making agreements and schemes should remain with the exchanges which must be able to adapt their rules to the nature and scale of their activity. <ESMA\_QUESTION\_ALGO\_44>

1. : Could you please describe how Primary Dealers agreements are designed (number of designated Primary Dealers, transparency about investment firms having signed such agreements, typical obligations contained, etc…). Do you consider that Primary Dealers should be exempted from the Article 1 of RTS 8? Do you consider that this can introduce a regulatory loophole?

<ESMA\_QUESTION\_ALGO\_45>

Euronext considers that Primary Dealers by and large sit outside of algo trading market making type of strategies. Euronext considers that Primary Dealers can be exempted for the Article 1 of RTS 8 without this being problematic. <ESMA\_QUESTION\_ALGO\_45>

1. : Do you think that venues which introduced asymmetric speedbumps provide enough information regarding the mechanism used? If not, what additional information would be useful to disclose to market participants?

<ESMA\_QUESTION\_ALGO\_46>

Euronext by and large believes that venues that have introduced asymmetric speedbumps have provided, and are providing, appropriate and sufficient information to all stakeholders involved in the process. <ESMA\_QUESTION\_ALGO\_46>

1. : Reflecting on those mechanisms which allow liquidity providers to provide quotes that can be filled only against retail order flow, do you think that such mechanisms are beneficial in terms of market quality? Is there any specific aspect that you think should be further taken into account, also considering the type of instruments traded? Please specify the venue of reference and the type of arrangement discussed.

<ESMA\_QUESTION\_ALGO\_47>

Euronext considers that such mechanisms are beneficial in terms of market quality so long as the retail investor is not disadvantaged in comparison to the institutional investor. Euronext, through its Best of Book (BoB) arrangement offers retail quotes, via participants in its BoB, at or above the EBBO (European Best Bid Offer) in a model where those orders compete in the overall order book thus allowing competition and an attractive price for retail investors. In this model transactions take place on a perfectly transparent platform integrated into Euronext's order book. This service provides additional liquidity to meet the orders of retail investors while remaining in the order book. Specialised liquidity providers compete to offer prices equal to or higher than the EBBO. Orders that are not matched with these prices are then placed in the order book. This gives investors access to a greater source of liquidity for Euronext-listed securities, while taking advantage of better execution prices. This model aims at offering the best price available on Euronext markets to the retail investor in a system that remains competitive.

This is in contrast to other models that implement solutions which allow liquidity providers to provide quotes that can be filled only against retail order flow in a construct that is only bilateral and does not have conditions around the EBBO.

Euronext welcomes recent statements by the Commission and [ESMA](https://www.esma.europa.eu/sites/default/files/library/esma22-105-1307_introductory_statement_on_gamestop_share_trading_-_steven_maijoor.pdf) that say that zero fee trading mechanisms need to be looked at in more detail. A [public study](https://www.euronext.com/fr/media/3641/download) conducted by Euronext’s Quantitative Research published in October 2020 and using data from independent provider Quanthouse from December 2019 to April 2020, compared the trading model of Euronext BoB and Apex, an Equiduct service that offers such an arrangement of free trading for retail brokers. The report found that:

• BoB improvements, net of fees, are outperforming Apex improvements by +1.36 bps using simple averages, and by +2.47 bps where using turnover weighted averages.

• BoB model outperforms the Equiduct Apex zero fee model.

• As Apex’s reference price model does not enable market makers to improve prices, as is the case for BoB, relative net improvement of BoB versus Apex strongly increases as spreads widen.

• On spreads larger than 10 bps, BoB’s improved quotes outperform the EBBO in 40% of cases.

As a result, while these alternative platforms may offer free trading, they do not always provide best execution and may cost more to the end investor, as they can lose out in terms of the final execution price for their order. When choosing an execution provider, retail investors are thus best served by finding a bank or broker that will execute their orders on the trading venue that offers the best execution conditions for the client, taking into account both explicit transaction costs (trading fees) and the natural liquidity present on the venue (execution price).

MiFID II Article 27 prohibits the granting of remuneration to firms to route orders to particular venues where such measures would infringe the MiFID requirements on conflicts of interest of inducements. In our view, ‘zero fee’ mechanisms appear akin to an implicit inducement since:

• The trading platform offers free trading to retail brokers sending orders from retail investors.

• It sends each retail order to a single market maker/SI, in return for a remuneration from the market maker.

• Market makers therefore face no competition, and can choose the execution price and time of the retail investor’s order, thereby benefitting from an execution price that is favourable to them and detrimental to the retail investor.

• This contrasts with trading on an exchange or equivalent multilateral trading facility, where multiple market participants compete to provide the best price for the investors, and enables brokers to meet best execution requirements for their clients.

Based on the above, Euronext would suggest that policymakers and regulators consider whether the following recommendations have merit:

- Firstly, adopt the proposals made by ESMA in its consultation paper on the functioning of Organised Trading Facilities to strengthen the definition of multilateral trading, beginning with moving the definition from MiFID II to MiFIR.

- Secondly, review the provisions on hybrid trading systems enshrined in Annex 1 of both RTS 1 (equity) and RTS 2 (non-equity) to ensure there is a clear distinction between bilateral and multilateral trading.

- Thirdly, in order to deliver CMU, focus on establishing a true level playing field that underpins investor protection, particularly for retail investors via: 1) A review of the process for the authorisation of market models in the EU, including the introduction of a compulsory opinion from ESMA, mirroring the existing arrangements for transparency waivers; 2) As part of this process, pay particular attention to ‘zero fee’ and payment for order flows relating to cases where the broker receives free execution with a view to ensuring the Best Execution requirements are met.

At the national level, a supervisory review by regulators of the retail order execution policies of the relevant firms under their supervision would also help to address this issue. <ESMA\_QUESTION\_ALGO\_47>

1. : Do you think that venues which introduce asymmetric speedbumps should set tighter market making requirements? Please explain why and how tight those new requirements should be.

<ESMA\_QUESTION\_ALGO\_48>

Euronext does not support the idea that venues which introduce asymmetric speedbumps should set tighter market making requirements. It is important that an exchange be given flexibility in developing and operating the liquidity schemes and market making programs that best suits its needs.

<ESMA\_QUESTION\_ALGO\_48>

1. : Do you agree on the conclusion that speedbumps might not be a well-suited arrangement for equity markets? If yes, do you think that such arrangements for equities should be prohibited in Level 1? Please explain.

<ESMA\_QUESTION\_ALGO\_49>

Euronext does not support the suggestion that such arrangements should be prohibited for equity markets without evidence of any detrimental effect of speedbumps on European equity markets. The current legal framework ensures a well-calibrated balance between allowing for innovation and the imperatives of market integrity and investor protection.<ESMA\_QUESTION\_ALGO\_49>

1. : Do you think that the introduction and functioning of speedbumps should be further regulated? If yes, which specific requirements would you like to be included in EU legislation?

<ESMA\_QUESTION\_ALGO\_50>

Euronext does not see the need for any further regulation of speedbumps. Currently, the number of trading venues that have introduced speedbumps is rather limited and hence there is little evidence and academic research on their performance and long-term effects that would require more regulation. We do, however, support continuing the dialogue between the respective regulators, ESMA, and trading venues that have introduced or are going to introduce speedbumps in the future.<ESMA\_QUESTION\_ALGO\_50>

1. : Is there any specific issue you would like to highlight about speedbumps?

<ESMA\_QUESTION\_ALGO\_51>

Euronext, in its role of guaranteeing fair and orderly markets, sets a high standard in maintaining a level playing field for all. For the time being, there is no evidence clearly pointing to any detrimental or significant positive effects of speedbumps on European equity markets. <ESMA\_QUESTION\_ALGO\_51>

1. : What are your views on the relative timing of private fill confirmations and public trade messages? If you are a trading venue, please provide in your answer an explanation of the model you have in place.

<ESMA\_QUESTION\_ALGO\_52>

This market micro-structure topic is a well debated feature of every exchanges (cash and derivatives). Certain venues have opted for a dissemination of private messages first, some others adopted the contrary with the publication of public market data messages prior to private fills. Euronext had opted for a non-deterministic equilibrium in between private and public messages and will migrate to a predominantly public first model throughout the course of 2021.<ESMA\_QUESTION\_ALGO\_52>

1. : Do you consider information on the sequencing of these two feeds at trading venues to be easily available? If you are a trading venue, please provide a link to where this information can be found publicly.

<ESMA\_QUESTION\_ALGO\_53>

There is no sequencing per design as the private and public feeds are hosted and transit through two completely different component of the trading infrastructure. The infrastructure design is of course available on our website[[1]](#footnote-2).<ESMA\_QUESTION\_ALGO\_53>

1. : Do you think there should be any legislative amendments or policy measures in respect of these feed dynamics?

<ESMA\_QUESTION\_ALGO\_54>

No, we do not see the need for legislative changes or policy measures in relation to the sequencing of data feeds. It should be left at the discretion of exchange operators and industry participants to adjust the models based on liquidity dynamics within the scope of applicable regulatory frameworks and taking into account the views of stakeholders, both professional and retail.<ESMA\_QUESTION\_ALGO\_54>

1. https://connect2.euronext.com/en/it-documentation [↑](#footnote-ref-2)