

## **Euronext Position Paper on the EU Benchmarks Regulation (BMR) Definitional Issues**

### **1. Recognising Characteristics of different types of Benchmarks**

- 1.1 Euronext operates Regulated Markets & MTFs based within the European Union (EU). The benchmarks Euronext administers are mainly equity indices, such as the CAC 40 or the AEX index. They are based on data from Regulated Markets, subject to applicable pre and post-trade transparency regimes. Moreover, these markets are also subject to comprehensive EU and national regulatory and supervisory frameworks governing market integrity, orderly and transparent price formation as well as their overall operation.
- 1.2 Euronext welcomes the framework created by the BMR given the need to re-establish trust in the provision and usage of benchmarks throughout the EU. At the same time, the BMR recognises that different types of benchmarks require different regulatory and supervisory approaches. In our case, benchmarks based on regulated data - classified as Regulated-Data Benchmarks under BMR - are subject to a **proportionate framework**, as they are based on transaction-based data, which is transparent and regulated.
- 1.3 While Euronext supports this approach, the way the scope of BMR has been framed and articulated does not, unfortunately, cater to the actual practices undertaken by Regulated-Data Benchmark Administrators. This means that - without further clarification - a significant proportion of them will not be able to benefit from the tailored regime designed for them under the framework.

### **2. Sourcing of data for Regulated-Data Benchmarks**

- 2.1 Under BMR, the concept of Regulated Data is important as it clearly recognises the difference between benchmarks based on data sourced from unregulated or less regulated sources and those based on data provided by entities such as Regulated Markets, which are Trading Venues under MiFID II. These markets are required to comply with comprehensive regulations under EU legislation concerning market integrity, orderly and transparent price formation as well as their overall operation. Moreover, their compliance with such regulations is subject to close and continuous oversight by the relevant regulatory authorities.
- 2.2 However, the definition of a Regulated-Data Benchmark frames the scope so that the input data for the benchmark should be sourced '**entirely and directly**' from Trading Venues. While we certainly support the limitation of the scope to data sourced from regulated venues subject to pre and post trade transparency, the scope of the definition does not reflect the practice of how trade data flows from one entity to another today.
- 2.3 **Euronext only sources data entirely and directly** in cases where we use data from our own trading venues. In respect of all other non-Euronext trading venues, given that we do not have direct connections to them, the **data is sourced from data vendors**. The data vendors provide the technical link between trading venues and administrators, facilitating the transfer of data from one to the other, while the data remains **unaltered**.

- 2.4 **A strict legalistic interpretation** of the definition of Regulated-Data Benchmarks - and specifically the **'entirely and directly'** requirement - would lead to an exclusion of a significant number of benchmarks, despite them being based on exactly the same type of input data compared to benchmarks compiled from input data obtained directly from a venue. As an example, the benchmarks Euronext operate that are based on data sourced from our "own" trading venues, such as the CAC40 or AEX will clearly be considered Regulated-Data Benchmarks.
- 2.5 Similar Euronext benchmarks (such as the Euronext VIGEO indices or the Low Carbon Europe 100) that contain regulated transaction data from a venue that we do not own, or to which we do not have direct connections, would be excluded from the scope of the Regulated-Data Benchmarks rules as a result of the **'entirely and directly'** provisions.
- 2.6 In contrast, Euronext believes that Regulated-Data Benchmark administrators obtaining regulated data via third party providers should fall within the scope of 'regulated data benchmarks' **as long as** the transaction data content is being provided in an unaltered fashion by the data vendor to the benchmark administrator.

In our view, such an approach would deliver on the BMR's policy objectives while accommodating the market's current practices. Euronext would therefore welcome further consideration of this issue at EU level as part of implementation under Levels 2 & 3.