

31 May 2010

CESR Technical Advice to the European Commission in the Context of the MiFID Review –Investor Protection and Intermediaries

Reply of NASDAQ OMX

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NASDAQ OMX appreciates the possibility to comment on this consultation document and has focused its reply on the issue of execution quality data.

Part 2: Execution quality data (Art 44(5) of the MiFID Level 2 Directive)

Questions:

13. Do you agree that to enable firms to make effective decisions about venue selection it is necessary, as a minimum, to have available data about prices, costs, volumes, likelihood of execution and speed across all trading venues?

Yes, investment firms need data about prices, costs, volumes, likelihood of execution and speed across all trading venues to make appropriate decisions about venue selection and deliver best execution.

14. How frequently do investment firms need data on execution quality: monthly, quarterly, annually?

Quarterly seems sufficient to ensure adequate updates of execution policies.

15. Do you believe that investment firms have adequate information on the basis of which to make decisions about venue selection for shares?

We believe adequate data is available when it comes to exchanges but, for other execution venues, execution quality data are difficult to find.

16. Do you believe investment firms have adequate information on the basis of which to make decisions about venue selection for classes of financial instruments other than shares?

Information is less readily available for financial instruments other than shares.

17. Do you agree with CESR's proposal that execution venues should produce regular information on their performance against definitions of various aspects of execution quality in relation to shares? If not, then why not?

Yes. This is necessary to foster competition between venues allowing firms to make an informed choice and delivering best execution.

18. Do you have any comments on the following specifics of CESR's proposal:
imposing the obligation to produce reports on regulated markets, MTFs and systematic internalisers;
restricting the coverage of the obligation to liquid shares;
the execution quality metrics;
the requirement to produce the reports on a quarterly basis?

We believe that the obligation should be voluntary. The other elements proposed appear adequate i.e. should concern all venues, only for liquid shares, metrics should be agreed, reports should be produced quarterly. We insist on the fact that before agreeing any specific metrics, such metrics should be submitted to a careful consultation process allowing execution venues to voice any difficulty that they may anticipate.

19. Do you have any information on the likely costs of an obligation on execution venues to provide regular information on execution quality relating to shares? Where possible please provide quantitative information on one-off and ongoing costs.

No. It is hard to define such costs on the basis of the information provided in the consultation. Costs would be affected by how the metrics are defined, for instance if execution venues would need to collect new external data which would add costs.

20. Do you agree with CESR that now is not the time to make a proposal for execution venues to produce data on execution quality for classes of financial instruments other than shares? If not, why not?

Yes. We do agree that at this stage limiting this requirement to shares seems appropriate.