

Public Consultation

Question 1 : Do respondents agree with CESR's views on:

- *The main issues to be addressed in an (execution) policy? Are there any other major aspects or issues that should ordinarily be included in an execution policy?*

Yes, in principle we are in agreement. It is important to point out that it is up to the respective License Holder to determine which are the major aspects that need to be included in the respective execution policy, however the main contents should address the following points

- a) describe the investment firm's execution approach for carrying out orders for execution from the time that an order originates to the time that it is executed or settled, as the case may be;
 - b) set out the execution venues or entities the firm uses and the role of execution quality and any other factors in selecting them
 - c) explain why the firm's execution factors influence the firm's execution approach for carrying out client orders
 - d) explain why the firm's execution approach for carrying out client orders will deliver the best possible result for the execution of those client's orders
- *The execution policy being a distinct part of a firm's execution arrangements for firms covered by Article 21?*

It is being understood that the word 'distinct' means clear and well-defined. In that case, we are in agreement with the statement above.

- *The execution policy under Article 21 being a statement of the most important and/or relevant aspects of a firm's detailed execution arrangements?*

Agreed. It is being understood that the **execution arrangements** shall have the purpose of recording the entity's operational procedures, whereas the **execution policy** highlights the essential elements of the entity's execution arrangements. It would be appreciated if CESR confirms whether this understanding is correct.

Question 2 : For routine orders from retail clients, Article 44 (3) requires that the best possible result be determined in terms of 'total consideration' and recital 67 reduces the importance of the Level 1 Article 21 (1) factors accordingly. In what specific circumstances do respondents consider that implicit costs are likely to be relevant for retail clients and how should those implicit costs be measured.

We believe that implicit costs should be segregated in so far as transaction costs ; periodic charges (e.g. weekly/quarterly/annual charges) and any third party charges borne by clients.

It would be appreciated if the question on 'how implicit costs should be measured' is further amplified.

Question 3 : Do respondents agree with CESR's views on the use of a single execution venue?

Yes.

Question 4: Do respondents agree with CESR's views on the degree of differentiation of the (execution) policy?

In principle yes, however the questions posed are the following –

- a) What constitutes to be a “sufficiently detailed description”?
- b) If an entity has detailed internal procedures explaining the execution arrangements, which salient information is required to be incorporated in the execution policy to be forwarded to clients?
- c) The Articles state that a firm's execution policy shall at least address the different classes of instruments for which it handles orders. Does this mean that a firm's execution policy addressing the procedure to be adopted for example, units in a collective scheme (as a class) is sufficient in terms of these articles?

Question 5: Do respondents agree that the 'appropriate' level of information disclosure for professional clients is at the discretion of investment firms, subject to the duty on firms to respond to reasonable and proportionate request? On the basis of this duty, should firms be required to provide more information to clients, in particular professional clients, than is required to be provided under Articles 46(2) of Level 2?

Agreed, however Licence Holders should be given a benchmark of what constitutes 'appropriate' information so as to limit the element of subjectivity between Licence Holders within the same industry.

Question 6: Do respondents agree with CESR on how "prior express consent" should be expressed? If not, how should this consent be manifested? How do firms plan to evidence such consent?

We are in agreement with the proposed manifestation of 'prior express consent'.

Question 7: Do respondents agree with CESR's analysis of the responsibilities of investment firms involves in a chain of execution?

We do not agree with CESR's analysis. On the basis of the understanding that the investment firms in a particular chain of execution are licensed institutions and members of the EU should give a Licence Holder the necessary comfort, that any intermediary in the chain of execution has arrangements or standards of execution quality that will allow it to comply with Article 45 (or, in the case of an executing firm, Article 21).

Question 8: What core information and/or other variables do respondents consider would be relevant to evaluating execution quality for the purposes of best execution?

Core information would comprise the following:

- Quality of service (i.e. speed of execution; likelihood of execution; speed of settlement)
- Price
- Tariffs and charges
- Size of the order

QUESTIONS/COMMENTS POSED BY GLOBALCAPITAL PLC

1. What are CESR's views on the Best execution policy for a License Holder's existing clients? How ought Licence Holders go about it?
2. The necessity to review execution policies annually, as stipulated in Article 45 of Level 2, is deemed as being too onerous. We propose that reviewing of an execution policy is carried out whenever a material change occurs that could affect the ability to obtain the best possible result.