

CESR
Mr Fabrice Demarigny,
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SUBJECT: Consultation on Best Execution under MiFid

DECO is the Portuguese Consumers Association and, at the moment, we have 320.000 associates. DECO is member of BEUC (Bureau Européen des Unions de Consommateurs), which represent 36 national consumers associations.

General Considerations

MiFid's best execution requirements are an important component of the investor protection, but it's essential that these rules are truly and really implemented across European Union: Security Regulators must be extremely careful and supervise compliance with these rules in practice, because that's the only way we can promote market efficiency and investor protection. MiFid's shouldn't be a mere intention's letter.

Our association agree with CESR's point of view, in respect of price and costs: when selecting venues to be included in its execution policy, an investment firm should not take into account the fees and commissions that it will charge the clients; when choosing a venue to execute a particular client order, the fees and the commissions charged to the clients by the investment firm will be a relevant component of costs.

On other way, it is important that Security Regulators can check if firm investments are ensuring that retail investor are able to distinguish the price of the instrument on a particular venue from the fee or commission charged by the firm for access to that venue.

European Regulators should have an extra care about the manner a firm is required to inform its clients about the execution policy - only an appropriate presentation can ensure that the information is effectively assimilated by the client. Very often, the financial education of the retail investor is very low, so this aspect has a higher relevance than expected - investment firms are supposed to facilitate client understanding of its execution process and the information must be provided in a comprehensible form, which will be facilitated by concentrating

all disclosure on the policy in a single and short document, followed by the necessary explanations from the investment firms representative.

Question 1

We agree with CESR's views on the main issues to be addressed in an execution policy and we don't see any other major aspect or issue that should be included in an execution policy. We fully agree that the execution policy is a statement of the most important / relevant aspects of a firm's detailed execution arrangements.

Question 2

We don't have proposals on this subject.

Question 3

We agree with CESR's views. However, we think it is important that investments firms should have to explain to the clients why they decided against connecting to other venues or entities – information is a key element and all the essential subjects should be disclosed to the clients.

Question 4

We fully agree with CESR's view on the degree of differentiation of the execution policy.

Question 5

This question is addressed to the professional clients, so we don't have any comment.

Question 6

We agree with CESR on how "prior express consent" (when proceeding to execute their orders outside a regulated market or an MTF) should be expressed, but we have some doubts that the "prior consent" (to the execution policy) could be tacit – the knowledge of the execution policy is a key issue, and misjudgments are quite common when a significant disproportion of knowledge exists, like in the partnership between investment firms and retail investors. We think that investment firms should confirm that the retail investor has really given prior consent to the execution policy (and, when asked by security regulator, can show evidence of that).

Question 7

We agree with CESR's analysis of the responsibilities of investment firms in a chain of execution, but we demand an extra attention from the Security Regulators whenever a chain of execution can form – if a investment is treated as an eligible counterparty and therefore is not owed a duty of best execution, it

must nevertheless ensure that any entities with which orders are placed or to which the investment firm transmits order for execution have execution arrangements that enable the investment firm to comply to with MiFid requirements.

Question 8

We don't have proposals on this subject.

Yours sincerely,

Tito Alexandre Nascimento

Relações Institucionais / Lobby Department



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