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Answers to the Consultation CESR/10-417 on Investor Protection and Intermediaries

Dear Sir or Madam,

Deutsche WertpapierService Bank AG ("dwpbank") welcomes the initiative of CESR to review the application of MiFID and would like to thank for the opportunity to share its views on rules to strengthen investor protection and market efficiency.

dwpbank is a credit institution in accordance with the German Banking Act and is a service provider for major parts of the German banking industry and focuses on the provision of securities processing services. dwpbank covers client groups from all three pillars of the German banking system, i.e. cooperative, savings and private/commercial banks.

In the following comments dwpbank would like to point out responses to selected questions raised by CESR in its consultation document. We have focused on part 2 und 6 of the consultation.

Part 2

Q13

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?

We regard the stated factors as sufficient for minimum requirements, providing the "price" factor has a flag which states whether trading took place on a binding basis at this price or whether it is a non-binding price indication. This results in the question of whether a non-binding price indication may/can/must/should be integrated in the calculation of the best execution of customer orders as binding price information. This is because there is no standardised collection methodology for the provision of data by execution venues. Some execution venues provide "non-binding" quotes ("tariffs"), while others provide binding ones. In our opinion, it would be desirable to establish identical requirements for quote/tariff disclosure across all execution venues.

This statement of a binding price is essential for calculating best execution, as it is only on this basis that comparability between the relevant execution venues can be established at a defined point in time.

In this context, the market needs not so much a new metric system, but rather an extension and specification of the metrics which are already in place.

It cannot be excluded that chargeable access of data from relevant suppliers prevents the required comparability. This is because investment firms will have only little appetite to access chargeable data.

Q14

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

We continue to regard the existing MiFID provision as sufficient. For this reason, the periodic supply of data should be the basis of an annual review or case-by-case decision.

Q15

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

In principle, all necessary information is available apart from the fact described in Q13.

Q16

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?

We do not see a difference in terms of the treatment between shares and other financial instruments.

Q17

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?

We do not agree to CESR proposal as we do not see any added value for market participants. This is because both the metric system defined by CESR and the period reports produced by the execution venues based on CESR specifications are not of practical value calculating the best execution result. We consider the measuring instruments and existing information apart from the fact described in Q13 sufficient, both for investment firms and for customers.

Q18

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?

- **Imposing the obligation to produce reports on RM, MTF and SI:** see Q17
- **Liquid shares:** In practice, both for liquid shares and for non-liquid shares the same calculation basis and methods are applied in calculating the best execution result. For this reason, the obligation of best execution applies to all financial instruments.
- **Execution quality metrics:** We do not agree, see Q13. We consider the existing regulations satisfactory.

- **Reports on quarterly basis:** As a general remark, we do not see the value of a periodic report because of the lack of comparability regarding the non quantitative factors. Hence, we do not see the reason for the efforts and expense of producing a periodic report.

Q19

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.

n/a

Q20

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?

As we found the concept of best execution quality metrics of limited value for shares, we question whether there has to be a regulation with regard to financial instruments other than shares in future time.

Part 6

Q28

Do you agree with the suggested deletions and amendments to the MiFID texts proposed in this chapter?

We agree to the suggested deletions as no competent authority has made use of them. As regards the amendments, we are of the opinion that a rule, especially to gather information for statistical or supervisory purposes, is not necessary. Each national authority has already today the power to request information. An obligation to deliver certain information, e.g. for statistical purpose, could indeed burden the investment firms. Therefore, discretion of each national competent authority takes preference over a binding rule.

Sincerely,

Deutsche WertpapierService Bank AG



Schwarz



Geber