COMMITTEE OF EUROPEAN SECURITIES REGULATORS

Date: 19 November 2010
Ref.: CESR/10-1415

REPORT

Summary of responses from investment firms and execution venues to CESR's 2009 Best Execution Questionnaire (Sections 1-4)

Note

This report sets out the summary of responses from investment firms and execution venues to the 2009 CESR questionnaire on best execution. CESR has published this summary in order to provide feedback on the questionnaire. This summary, or any statement made herein, does not represent any policy or recommendation by CESR or CESR Members.

CESR recognises that the specific form of the MiFID best execution rules was a significant new departure for most EU Member States, and that, therefore, implementation has posed some challenges - made all the more difficult by the onset of the financial crisis in 2007. Against this background, CESR members have been looking at firms' implementation of MiFID and have been seeking to ensure that adjustments are made, including in relation to best execution, where implementation has fallen short of what was required.

Introduction

1. In December 2009, CESR distributed a questionnaire on best execution (a copy is attached at the end of this paper) to investment firms (including those who receive and transmit client orders, as well as those that execute client orders), regulated markets and multilateral trading facilities across the EEA through its members. The questionnaire covered four broad areas:

    i. information to clients about best execution policies;
    ii. choice of execution venues;
    iii. monitoring and review; and
    iv. execution quality data.

2. Each member was asked to distribute the questionnaire to about 10 entities in its jurisdiction. It was left to the discretion of each competent authority as to whom they circulated the questionnaire. CESR was seeking to get a flavour of the views and experiences of investment firms and execution venues rather than to construct a representative sample. This summary of replies needs to be interpreted in the light of the approach taken.

3. Replies were received at the end of January 2010. CESR is very grateful to all the entities who completed the questionnaire for the care, time and effort they took in participating in this work.

4. The purpose of the questionnaire was to assist CESR in its work on the MiFID review and to enable it to see whether further Level 3 work[1] was required to achieve greater consistency in the implementation of the MiFID best execution requirements. The information from Section 4 of the questionnaire assisted in the preparation of the advice that CESR gave to the European Commission on execution quality data as part of the MiFID review.[2]

5. The responses will help CESR to take forward work on best execution in the light of the publication of the European Commission's consultation paper on the MiFID review. CESR is also considering whether there are issues identified by the responses to the questionnaire that should be addressed through additional CESR guidance. This includes the issue of the data that investment firms have to collect to review their execution policies as identified in CESR's advice to the Commission on execution quality data.

[1] CESR previously published Level 3 Q&A guidance on best execution in 2007 (Ref: CESR/07-320): http://www.cesr.eu/index.php?docid=4606

[2] See the Investor Protection and Intermediaries section of CESR's 'Technical Advice to the European Commission in the Context of the MiFID Review and Responses to the European Commission Request for Additional Information' (Ref: CESR http://www.cesr.eu/index.php?docid=7003 [see Part 2: Execution quality data (Article 44(5) of the MiFID Level 2 Directive)].

6. Whilst work on best execution is ongoing, CESR has decided it would be helpful to make publicly available a summary of the responses to the questionnaire.

7. The concept of best execution is not a new one. However, the specific form the rules took in MiFID represented a significant new departure in most EU Member States. Implementing the rules, therefore, posed a challenge that was made more difficult for firms by the onset of the financial crisis in 2007. CESR members have been looking at firms' implementation of MiFID and have been seeking to ensure that adjustments are made, including in relation to best execution, where implementation has fallen short of what was required. The summary of responses needs to be read against this background.

Summary of responses

Section 1: Investment firms with permission to execute orders for professional clients

<u>Execution policies and information provided to clients</u>

Execution policies

8. Most firms surveyed developed and used their own order execution policies. However, one firm stated that it used a customised template from a law firm. Another firm stated that its policy is based on recommendations made by the Member State's implementation of the MiFID guidelines.

'Strategy and 'key steps'

9. Many of the responses provided limited information about what is included in execution policies regarding 'strategies' and 'key steps' for obtaining best execution. Only a few firms set out clearly in their response the process for ensuring that the 'strategy' and 'key steps' were included. Some firms mentioned the role played by compliance in ensuring the execution policy is consistent with the obligations in MiFID.

Information to clients (disclosure)

10. Firms stated that they provided information on their execution policies in simple, clear terms, engaged with clients as necessary and required clients to confirm they had read the document. Some firms stated that they published their policies on the internet. One firm stated that it sent a link to its 'Terms and Policies' to all new clients. Disclosure was done at the outset of the client relationship.

11. Many firms stated that there were no commercial sensitivities that limited the amount of information firms were prepared to disclose to clients regarding their order execution policies. Those that did mention such sensitivities, mentioned the need to protect their commercial position in relation to such matters as contracts with brokers, orders crossed internally (counterparty not disclosed) and the extent to which certain facilities are a business secret. Some firms stated that they strived to be as transparent as possible with clients regarding their execution policy.

12. Most firms said they did not provide additional information on their order execution policy to that provided at the outset of the client relationship. Questions by clients tended to be more specific – relating, for example, to an order rather than on the policy itself. One firm stated that once a client is taken on, more information about its policy will be provided to the client. Another firm stated that its client routinely sends it questionnaires regarding its execution policies and asks for specific information.

Requests to demonstrate best execution

13. Most firms said that there has been no noticeable increase to demonstrate to clients at their request that orders have been executed in accordance with firms' execution policy.

<u>Execution venues</u>

Number of venues

14. The number of venues used varied widely across firms.

Selection of venues

15. There was a wide variety of factors used by respondents to choose a new venue, such as liquidity or better pricing. Most firms surveyed had connected to a new execution venue since MiFID was implemented. While some firms surveyed had not disconnected from any venue, others had. Reasons for disconnection included business reasons, the venue closing, and/or merging with another venue. Many firms did not have internal crossing but some did. One firm had the technical infrastructure for internalising but does not currently internalise. Another firm crossed orders manually, but planned to set up a tool to cross orders.

16. Most firms surveyed did not think that there were barriers hindering effective cross-border competition between execution venues. However, for those firms who thought there were barriers, these were stated as:

   - Lack of interoperability between clearing houses. The inability to choose a 'clearer of choice' and net settle across numerous venues significantly increased the cost of clearing for market participants and acted as a barrier to entry.

   - Local rules which prevent remote membership of exchanges or complex re-registration processes.

   - Different regulatory regimes and clearing and settlement requirements in several countries, creating obstacles to competition between venues.

   - Absence of a central counterparty continues to be a clearing problem for some venues.

   - Distance – speed (or latency), mitigated by new facilities, e.g., hosting facilities, IT developments etc.

   - System costs, integration to back office and settlement systems.

   - Higher costs charged by foreign stock exchanges and stamp duties.

   - Difficulty in trading cross border as shares in different countries are held in different depository accounts.

Execution of orders under MiFID

17. Most firms surveyed stated that compliance with the best execution rules in MiFID had not made any significant changes to the way orders were executed. Some firms stated that they had always strived to offer clients best execution. Some firms stated that they had smart order routing (SOR), which helped with achieving compliance with best execution. SOR also helped address the increased competition and fragmentation of liquidity across the MTFs and exchanges that has occurs since the implementation of MiFID. A notable comment from a few firms was that the execution landscape had become more complex and competitive since the implementation of MiFID.

18. Many firms surveyed stated that there had not been any significant changes to their order flow since the implementation of MiFID. However, one firm stated that there had been a significant change, particularly an increase in electronic order flow. Another firm stated that increase in order flow was more due to developments in IT, increased fragmentation, and changed trading patterns by clients rather than MiFID. Another firm stated that trading volume fell significantly, but this was due to the financial crisis rather than MiFID.

19. Many firms surveyed had not observed a diminution of execution fees due to increased competition since the implementation of MiFID. A minority of firms thought execution fees have reduced with increased competition across venues and platforms, offset by costs associated with splitting orders into smaller slices across venues and clearing and settlement costs associated

with using different clearing houses. One firm pointed out that direct execution fees were only part of the overall consideration of the transaction costs. Other reasons given for lower fees included exchange competition, unbundling, and the significant expansion of electronic trading. Another firm considered that competition on commission rates is still strong but the biggest part of the commission is for services besides pure execution like research. This firm considered that the transaction fees are coming down but the overall effect has not yet been realised as it is still a fraction of the total turnover that are executed on new low cost venues and that the traditional exchanges are charging a lower but still very high fee. This firm also noted that the cost for data and data feeds has gone up due to the fragmentation and lack of useable consolidated data feeds. Changing from a local single execution venue (exchange) process to a multi market access execution set up including implementation of smart order routing functionality has increased the cost for execution. However the firm stated that their retail customer execution fees in general have been materially reduced since the implementation of MiFID.

Post transaction performance appraisal

Monitoring and review

20. Some firms surveyed confirmed that they monitor their execution performance by looking at similar transactions (i) on the same execution venue and (ii) on different execution venues but provided no further elaboration. Other firms set out explicitly how they carried out monitoring. One firm stated that since the order routing systems automatically direct in particular retail orders to the market with the most favourable prices, there is really no need to monitor compliance of transactions, but rather to have sufficient routines in place to check that the system operates as intended. Firms also mentioned the inclusion of compliance and/or an independent auditor in the process of monitoring.

21. Firms elaborated more on their review processes. Firms also stated that compliance was also included in the process.

Availability of data

22. Most firms surveyed used external data to monitor/review execution performance. Firms listed Reuters, ESignal, Fidessa, Bloomberg, Interactive Data and trading venues as some of the sources of external data used.

23. Most firms surveyed did not have any problems obtaining or analysing data. However, one firm stated that the analysis of data can be somewhat hampered by the lack of transparency or consistency of reported data. Another firm stated that inconsistency in price improvement calculations, lack of a standardised European Best Bid and Offer, and differences in how venues calculate benchmarks such as Volume Weighted Average Price were obstacles to be overcome when analysing data.

24. Most firms stated that execution venues provided adequate data or assistance to enable them to judge properly the execution quality they provide.

Execution of other classes of financial instruments other than shares

25. One firm stated that for bonds, it was not easy to prove best execution. This was also the case for structured notes. The firm describes in its regulations how the price of structured notes is calculated. A client that wanted more information receives more details of the procedure of the calculation.

26. One firm stated that in dealing with OTC derivatives, foreign exchange products, bonds, structured products, it will normally act on a request for quote basis. As this is the case, such instruments will not be subject to its best execution policy.

Section 2: Investment firms with permission to execute orders for retail clients

Execution policies and information provided to clients

Execution policies

27. Most firms surveyed stated that they use their own execution policies. In the policies, the execution venues cited included regulated markets, multilateral trading facilities, systematic internalises and third party investment firms acting as a market maker. However, a few firms stated that they used a template. One firm that used a bank's trading platform stated that it had the bank's confirmation that trades were fully compliant with the MiFID best execution requirements. Another firm stated that its policy is based on recommendations made by its banking industry body/trade association regarding the implementation of MiFID.

'Strategy' and 'key steps'

28. With regard to ensuring that the order execution policy includes the 'strategy' and 'key steps' for obtaining best execution, many of the responses were less than robust. A few firms alluded to the fact that they followed the laws and regulations issued by the competent authority, MiFID and other directives or that these were constantly monitored or frequently reviewed. For some other firms surveyed, Compliance was involved in the process of ensuring that the execution policy included the 'strategy' and 'key steps'.

Information to clients (disclosure)

29. With regard to client disclosure and ensuring clients understood the considerations leading to their order being executed on a given venue, some firms stated that information on their order execution policy is included in the client terms of service and clients have to confirm that they have read and accept its prevailing guidelines on order execution. Some firms emphasised that the policy is written in clear, simple language and that changes are notified to clients. Some respondents stated that the policy is on their website.

30. Most firms surveyed stated that there were no commercial sensitivities that limited the amount of information firms were prepared to disclose to clients about their order execution policy. However, one firm stated that it did not disclose specific details about the systems it uses.

31. Regarding whether more information on the firm's order execution policy is provided once a client is taken on, some firms stated that clients received information relating to best execution at the onset of the relationship. Some firms stated that no additional information is provided or that more information is provided when the policy is updated or amended.

32. Most firms surveyed stated that they did not provide additional information to clients that is not disclosed in the standard information provided. One firm stated that clients usually ask for clarifications, not additional information. Another firm stated that it received occasional enquiries and that a copy of the order execution policy is provided to clients on request.

Requests to demonstrate best execution

33. Respondents said there has been no noticeable increase in requests to demonstrate to clients that orders have been executed in accordance with the execution policy.

Execution venues

Number of venues

34. The number of venues used varied widely across firms.

Selection of venues

35. Firms used a wide variety of criteria when selecting venues. Most firms surveyed have connected to a new execution venue since MiFID was implemented. One firm noted that approximately 2.9% of their orders are executed on venues they have started using since MiFID implementation in November 2007. However, one firm stated that there was no business case for adding a new venue. Another firm stated that including a new venue is preceded by an exhaustive observation or trial trading phase. Other firms stated that they connected to venues which offer their clients the best price and the lowest cost.

36. For the firms that have connected to a new venue since MiFID, there was a wide variation in the volume of trades executed on these venues.

37. Most firms surveyed had not disconnected from any venue. However, one firm stated not enough business as a reason for disconnecting from a venue. While some firms cross order flow other firms do not. While some firms executed orders on execution venues based in other Member States, others did not. Of those firms that did, the percentages of trades executed in other States varied.

38. Most firms surveyed stated that there were no perceived barriers that hinder cross-border competition between execution venues. For firms who thought barriers existed, they cited speed, liquidity, and clearing and settlement. One firm noted that the choice of execution venues tended to be predominantly domestic in origin.

39. Most firms surveyed stated that MiFID did not significantly change the way they execute orders. However, one firm stated that it had introduced improved processes due to its new wholesale connection. Most firms also stated that there had been no significant changes to their order flow since the implementation of MFID.

40. Most firms surveyed did not observe a diminution in execution fee due to increased competition since MiFID. However, a few firms did. One firm stated that it could not judge if the decrease was due to increased competition due to MiFID. Another firm observed lower transaction rates.

<u>Post transaction performance appraisal</u>

Monitoring and review

41. Most firms stated that they carried out monitoring, with some stating that they carried this out in the way described in the survey. Other firms stated various other methods they employed to monitor best execution, examples included a firm stating that it carried out monitoring of its retail clients' trades against its execution policy to make sure that all parameters are complied with. Another firm stated that it used statistical measurement in its analysis, while another firm's independent risk controller had a mandate to review orders to ensure that securities services are compliant with MiFID.

42. Most firms were able to elaborate on how they carried out reviewing, which was mostly on an annual basis. One firm stated that the execution policy and arrangements are compared to current rules and amended accordingly if necessary. For many firms, compliance and/or various formal committees were involved in the process. Several firms also noted that the best execution policy was reviewed to take into account product launches, new services, system solutions or new venues.

Availability of data

43. Most firms surveyed stated that they used external data. Examples given included Fidessa and Bloomberg. Most firms did not experience any problems obtaining or analysing data. In addition,

most firms surveyed stated that execution venues provided adequate data or assistance to enable them to judge the execution policy properly.

Execution for classes of financial instruments other than shares

44. One firm stated that for non-Euronext listed bonds, it had a different execution policy and that these transactions are always OTC.

Section 3: Investment firms who receive and transmit client orders or are portfolio managers

Execution policies and information provided to clients

'Strategy' and 'key steps':

45. Most respondents said they deferred to the policies of the executing firms, reasoning that if these entities had a policy which set out their strategy for obtaining best execution, then that was sufficient.

Information to clients (disclosure)

46. All of the RTOs/portfolio managers were of the opinion that there were no 'commercial sensitivities' that would limit the degree of disclosure to clients. None of the RTO's provided additional information to clients after the initial disclosure when a person became a client. Additionally, respondents said that clients do not request additional information from RTOs/portfolio managers.

47. Most RTOs/portfolio managers said that the information they are given by firms who execute client orders on their behalf is generally sufficient and they did not usually request additional information.

Entities to whom orders are sent

Number of venues used

48. RTOs/ portfolio managers appear to be relying on a small number of investment firms, typically 3-4 to transmit/place orders with. Most RTOs/portfolio managers said they had not made any changes to their lists of firms who they transmit or place orders with since the introduction of MiFID.

Selection of entities

49. A number of factors influence the choice of investment firm: cost, access to exchanges and data, reliability of service, research, the scale of markets covered, reputation, operation within an acknowledged regulated environment, MiFID compliance, financial health etc. No one factor was cited more frequently than others. Some firms also noted that Chinese walls provide for the separation of order execution services from other services such as research.

MiFID

50. Most respondents did not think that MiFID has altered their approach to transmitting or placing orders with firms for execution.

Post transaction performance appraisal

Monitoring and review

51. In terms of frequency of monitoring RTOs/ portfolio managers said that trades were monitored on a 'constant'/'daily basis'. Most respondents said they carried out monthly monitoring, but did not detail the processes that were used for this. One firm noted that most of their orders are placed by them or by other group entities. The firm mentioned that, in exceptional cases where external investment firms are used, the firm has no specific monitoring in place, but would rely on the firm's execution policies. Another firm noted that whenever there are any material changes (such as a change in execution venues) that impact their ability to achieve best execution, then these changes are disclosed to clients.

52. Of those firms that said they carried out a review, none volunteered any detail on how this was carried out beyond saying that they have discussions with third entities; gauge 'executed trades and market movement'; citing the department which carries out the review.

Availability of data

53. Most RTOs /portfolio managers said they purchase data and this tends to be from the data vendors. However, a regulated market was also cited as a data source. One firm noted that its intermediary regularly provides printed verifications of the orders it transmits on the firm's behalf which also include detailed information relating to the prevailing market prices at the time when the order was executed.

54. One firm noted that it sometimes finds it difficult to obtain data in relation to certain bonds. When this occurs, the firm reviews the data sent back from the investment firms.

Section 4: Execution Venues

Key findings

Information provided to users

55. While a small minority of venues appear to be offering specific data services to facilitate evaluation (for example, one major European regulated market said that in addition to its live feeds, it provides historical data and comprehensive TCA for the specific purposes of evaluating best execution), most venues typically supply only live feeds of mainly price and volume data. Though these live feeds can be used to indirectly compile historical post-trade data, it is the firms themselves who appear to be compiling this data rather than the venues.

56. Users appear to rely on venues for mainly live data. Though some users make use of historical data (and one venue has noted an increase in the demand for historical trade data), the venues cite live feeds as the data type that is most frequently purchased by users.

Impact of MiFID

57. Venues had very little to say on the impact of MiFID but were mostly all in agreement that it had not altered data requests from users. However, one major regulated market noted that though the number and the nature of requests for real-time data had not changed, it had observed that the demand for historical and reference data services has increased since the introduction of MiFID.

58. One venue noted that there had been an increase in the number of customers using post-trade data in the period immediately after to the implementation of MiFID.

Execution performance

Provision/construction of liquidity measures

59. While the majority of venues appear not to currently provide any measure of liquidity at their venues some venues (typically MTFs) are providing some measure of market share of stocks traded at their venues. However, some venues responded that they are currently working on providing liquidity indices and that this is still in development stages.

Disconnection

60. Venues have not experienced noticeable levels of users disconnecting/switching venues. Statistics offered ranged from less than 1% to 5%. The reasons most frequently given for those disconnections that did occur were (i) company default (ii) resignation due to low trading volume (iii) switching to other affiliated venues.

Date: November 2009
Ref.: CESR/09-xxx

QUESTIONNAIRE

Survey of best execution practices across CESR Members

I. Background

In June 2009, CESR published its report "Impact of MiFID on equity secondary markets functioning".[3] That report highlighted the recent significant changes in secondary markets across Europe. The most significant change has been the establishment of new MTFs which have taken market share from the regulated markets. Nevertheless, the regulated markets continue to be the main destination for equity trading.

The new platforms offer more opportunities for pan-European trading and one of their attractions is their highly competitive execution (and clearing) fees. Regulated markets responded by taking initiatives to improve their offering by focussing on technological improvements, lower fees and the introduction of new services. The increase in choice of execution venues has been reflected in changes in the way orders are executed.

Article 44 (5) of Directive 2006/73/EC also requires the Commission to report to the European Parliament and to the Council on the availability, comparability and consolidation of information concerning the quality of execution of various execution venues.

The objective of this work is to perform an assessment of firm practices in relation to best execution and to assist in providing advice to the Commission on the above review. Specifically, the survey questionnaire seeks to obtain data around three key areas:

1. Policies and Information provided to clients
   Looking at (i) the content of execution policies and the effectiveness of disclosure about the execution policies of investment firms executing client orders; and (ii) the content of policies of receivers and transmitters and portfolio managers to obtain the best possible result for clients when using other investment firms to execute orders and the disclosures they make about these policies.

2. Selection of execution venues and investment firms
   Looking at the efforts investment firms who execute client orders are making to use the most effective execution venues, and the efforts investment firms who receive and transmit client orders or are portfolio managers are making to use the most effective investment firms to execute orders.

3. Post transaction performance appraisal
   Looking at investment firms' review and monitoring processes for order execution or for passing orders to other investment firms for execution.

The questionnaire is split into separate sections. Participants in the questionnaire will get the section that is relevant to them.

The first two sections cover investment firms who execute orders on behalf of professional and retail clients respectively. The questions are identical. Where a firm executes orders for both types of client it can either restrict itself to answering questions in relation to one type of client or provide one set of answers pointing out differences in relation to the execution of orders between the two types of client.

The third section covers investment firms who receive and transmit client orders or are portfolio managers. These investment firms face different obligations to investment firms who execute client orders. Some portfolio managers execute orders resulting from their decisions to deal directly. In this

[3] http://www.cesr-eu.org/popup2.php?id=5771

section of the questionnaire we want to focus on situations in which they pass orders to other investment firms to execute. Portfolio managers who execute directly are invited to respond to the questions in Sections 1 or 2, as appropriate.

The fourth section is aimed at the execution venues. Whilst this term can include investment firms dealing on own account the questions are of more direct relevance to regulated markets and MTFs and should be directed to the main regulated markets and MTFs.

The questionnaire is aimed at best execution in shares. However, best execution applies to transactions for other classes of financial instrument and therefore there is a general question about other classes of financial instruments in each section of the questionnaire except the section relating to execution venues.

Please respond to this survey by close of business on January 31st 2010 and send responses to Stephen Hanks stephen.hanks@fsa.gov.uk and Diego Escanero, descanero@cesr.eu.

II. Survey questions

Section 1 – Investment firms with permission to execute orders for professional clients

EXECUTION POLICIES AND INFORMATION PROVIDED TO CLIENTS

The focus here is to understand what firms put in their execution policies and gauge the extent to which investment firms are actively/adequately informing their clients about order execution. For investment firms executing client orders such information disclosures about their execution policies should be an important part of a client's decision to choose to use a firm's execution services.

1. Do you use your own order execution policy or do you use a customised template (such as one provided by a trade association or a law firm) for your order execution policy?
2. How do you ensure that your order execution policy includes your 'strategy ' and 'key steps' for obtaining best execution?[4]
3. In disclosing information about your execution policy how do you ensure that your clients understand the considerations that will lead to their order being executed on a given execution venue?
4. Are there any commercial sensitivities that limit the amount of information you are prepared to disclose to clients about your order execution policy? If so, please elaborate.
5. Once a client has been taken on, is more information about your order execution policy provided to them? If so, what information?
6. Have clients asked for additional information that is not disclosed in the standard information you provide about your execution policy? If so, please elaborate.
7. Has the rule requiring firms to demonstrate to a client, at the client's request, that orders have been executed in accordance with the firm's execution policy led to any notable increase in requests from clients to explain the execution achieved?

SELECTION OF EXECUTION VENUES

The focus here is to assess whether firms are selecting execution venues on an objective and informed basis and have an appropriate pool of execution venues to rely on. If a firm only uses one execution venue most of the questions below will not be relevant. In those circumstances it would be helpful if the firm could explain why it relies on a single venue.

1. How many execution venues do you currently use?
2. What criteria do you use in determining whether to connect to a new execution venue?
3. Have you connected to any new execution venues since MiFID-implementation in November 2007? Please specify which execution venues and if not, why not?
4. Approximately what percentage of your orders are executed on venues you have started using since MiFID implementation in November 2007?
5. Have you disconnected from any venues since MiFID implementation in November 2007? Please specify which venues and explain why you disconnected.
6. Do you have systems to cross client order flow? If so, approximately what percentage of your client order flow is executed through internal crossing?

[4] This question is based on the material in paragraph 4.1 of CESR/07-320 'Best Execution Under MiFID' which describes CESR's view of what an execution policy should contain.

7. Do you execute orders on execution venues based in other Member States and, if so, approximately what percentage of your orders are executed on execution venues in other Member States?
8. What barriers, if any, do you perceive exist which hinder effective cross-border competition between execution venues?
9. Has compliance with the best execution rules in MiFID made any significant changes to the way in which you execute orders?
10. Have there been any significant changes to your order flow since the implementation of MiFID? Please explain.
11. Have you observed a diminution of execution fees due to increased competition since the implementation of MiFID in November 2007? Have you passed on any such diminution to your clients? Please explain.

POST TRANSACTION PERFORMANCE APPRAISAL

The focus here is to gauge what monitoring processes firms have in place to ensure best execution is achieved on a consistent basis as well as to ascertain if firms are using the information sources - be they internal or external – available to inform the selection and switching of execution venues.

1. How do you carry out your monitoring of your order execution policy and arrangements? For example, do you compare similar transactions:
(i) on the same execution venue, in order to test whether your judgement about how orders are executed is correct, or
(ii) on different execution venues chosen from among those in your execution policy, in order to test whether the 'best' execution venue is being chosen for a given type of transaction[5].
2. How do you carry out your annual review of your execution policy and arrangements?
3. Do you use external data (such as data provided by data vendors or execution venues) to monitor/review execution venue performance? If so, what type of external data do you use?
4. Are there any problems in obtaining or analysing data?
5. Do execution venues provide adequate data or assistance to enable you to judge properly the execution quality they provide?

BEST EXECUTION FOR CLASSES OF FINANCIAL INSTRUMENTS OTHER THAN SHARES

If your answers to the above questions would be significantly different for classes of financial instruments other than shares, please set out and explain the differences specifying to which class of financial instruments they relate.

[5] This question is based on the material in paragraph 24.1 of CESR/07-320 'Best Execution Under MiFID' which describes CESR's views of possible ways in which a firm can monitor its execution policy and arrangements.

Section 2 – Investment firms with permission to execute orders for retail clients

EXECUTION POLICIES AND INFORMATION PROVIDED TO CLIENTS

The focus here is to understand what firms put in their execution policies and gauge the extent to which investment firms are actively/adequately informing their clients about order execution. For investment firms executing client orders such information disclosures about their execution policies should be an important part of a client's decision to choose to use a firm's execution services.

1. Do you use your own order execution policy or do you use a customised template (such as one provided by a trade association or a law firm) for your order execution policy?
2. How do you ensure that your order execution policy includes your 'strategy ' and 'key steps' for obtaining best execution[6]?
3. In disclosing information about your execution policy how do you ensure that your clients understand the considerations that will lead to their order being executed on a given execution venue?
4. Are there any commercial sensitivities that limit the amount of information you are prepared to disclose to clients about your order execution policy? If so, please elaborate.
5. Once a client has been taken on, is more information about your order execution policy provided to them? If so, what information?
6. Have clients asked for additional information that is not disclosed in the standard information you provide about your execution policy? If so, please elaborate.
7. Has the rule requiring firms to demonstrate to a client, at the client's request, that orders have been executed in accordance with the firm's execution policy led to any notable increase in requests from clients to explain the execution achieved?

SELECTION OF EXECUTION VENUES

The focus here is to assess whether firms are selecting execution venues on an objective and informed basis and have an appropriate pool of execution venues to rely on. If a firm only uses one execution venue most of the questions below will not be relevant. In those circumstances it would be helpful if the firm could explain why it relies on a single venue.

1. How many execution venues do you currently use?
2. What criteria do you use in determining whether to connect to a new execution venue?
3. Have you connected to any new execution venues since MiFID implementation in November 2007? Please specify which execution venues and if not, why not?
4. Approximately what percentage of your orders are executed on venues you have started using since MiFID implementation in November 2007?
5. Have you disconnected from any venues since MiFID implementation in November 2007? Please specify which venues and explain why you disconnected.
6. Do you have systems to cross client order flow? If so, approximately what percentage of your client order flow is executed through internal crossing?
7. Do you execute orders on execution venues based in other Member States and, if so, approximately what percentage of your orders are executed on execution venues in other Member States?
8. What barriers, if any, do you perceive exist which hinder effective cross-border competition between execution venues?

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[6] This question is based on the material in paragraph 4.1 of CESR/07-320 'Best Execution Under MiFID' which describes CESR's view of what an execution policy should contain.

9. Has compliance with the best execution rules in MiFID made any significant changes to the way in which you execute orders?
10. Have there been any significant changes to your order flow since the implementation of MiFID? Please explain.
11. Have you observed a diminution of execution fees due to increased competition since the implementation of MiFID in November 2007? Have you passed on any such diminution to your clients? Please explain

POST TRANSACTION PERFORMANCE APPRAISAL

The focus here is to gauge what monitoring processes investment firms executing client orders have in place to ensure best execution is achieved on a consistent basis as well as to ascertain if firms are using the information sources - be they internal or external – available to inform the selection and switching of execution venues.

1. How do you carry out your monitoring of your order execution policy and arrangements? For example, do you compare similar transactions:
   (i) on the same execution venue, in order to test whether your judgement about how orders are executed is correct, or
   (ii) on different execution venues chosen from among those in your execution policy, in order to test whether the 'best' execution venue is being chosen for a given type of transaction?[7]
2. How do you carry out your annual review of your execution policy and arrangements?
3. Do you use external data (such as data provided by data vendors or execution venues) to monitor/review execution venue performance? If so, what type of external data do you use?
4. Are there any problems in obtaining or analysing data?
5. Do execution venues provide adequate data or assistance to enable you to judge properly the execution quality they provide?

BEST EXECUTION FOR CLASSES OF FINANCIAL INSTRUMENTS OTHER THAN SHARES

If your answers to the above questions would be significantly different for classes of financial instruments other than shares, please set out and explain the differences specifying to which class of financial instruments they relate.

[7] This question is based on the material in paragraph 24.1 of CESR/07-320 'Best Execution Under MiFID' which describes CESR's views of possible ways in which a firm can monitor its execution policy and arrangements.

Section 3 - Investment firms who receive and transmit client orders or are portfolio managers

Our company is a medium size asset management company (mutual funds and institutionals managed accounts).

POLICIES AND INFORMATION PROVIDED TO CLIENTS

The focus here is to understand what investment firms receiving and transmitting client orders or acting as a portfolio managers put in their policies concerning how they use other investment firms to execute their orders and the information provided to clients on these policies. This information should be an important part of the information a client takes into account when choosing to use the services of such a firm receiving and transmitting or acting as a portfolio manager.

1. Do you use your own policy for obtaining the best possible result when placing orders with or transmitting orders to other entities for execution, or do you use a customised template (such as one provided by a trade association or a law firm) for your policy?

2. How do you ensure your policy for obtaining the best possible result when placing orders with or transmitting orders to other entities for execution includes your 'strategy' and 'key steps' for obtaining the best possible result for your clients?[8]
3. Are there any commercial sensitivities that limit the amount of information you are prepared to disclose to clients about your policy to obtain the best possible result when placing orders with or transmitting orders to other entities for execution? If so, please elaborate.

4. Once a client has been taken on, is more information about your policy for obtaining the best possible result provided to them. If so what information?

5. Have clients asked for additional information that is not disclosed in the standard information you provide about your policy for obtaining the best possible result?

6. Does the information provided by firms executing your orders (pursuant to the requirements of the best execution rule) about their order execution policies typically include a sufficiently adequate summary of the 'strategy' and 'key steps' for obtaining best execution to enable you to make an informed decision whether to use their execution services? If not, what additional information do you think should be provided to enable you to make an optimal choice of investment firms to execute your orders?[9]

7. Does the information provided by firms executing your orders (pursuant to the requirements of the best execution rule) about their order execution policies enable you to understand how they make decisions about the choice of execution venues for your orders?

8. Is the information provided by firms executing your orders (pursuant to the requirements of the best execution rule) about their order execution policies sufficiently differentiated from each other to allow you to distinguish between the execution services they are offering to you?

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[8] This question is based on the material in paragraph 6.2 of CESR/07-320 'Best Execution Under MiFID' which describes CESR's view of what policies to obtain the best possible result for client orders which are executed by other investment firms should contain.
[9] This question is based on the material in paragraph 4.1 of CESR/07-320 'Best Execution Under MiFID' which describes CESR's view of what an execution policy should contain.

9. Have you asked firms executing your orders to supply more information about their execution policies than is contained in their standard disclosure to clients? If so, what extra information have you asked for?

SELECTION OF INVESTMENT FIRMS

The focus here is to assess whether firms are selecting investment firms who execute client orders on an objective and informed basis and have an appropriate pool of firms who execute client orders to rely on. If a firm only uses one investment firm to execute orders most of the questions below will not be relevant. In those circumstances it would be helpful if the firm could explain why it relies on a single investment firm to execute orders.

1. How many investment firms do you currently transmit orders to or place orders with?

2. What criteria do you use in determining whether to use a new investment firm to transmit orders to or to place orders with?

3. Have you made any changes to the list of investment firms to whom you transmit orders or place orders with since MiFID was implemented in November 2007? If so, approximately how many changes have you made and why have you added or deleted investment firms?

4. When selecting investment firms to transmit orders to or place orders with how do you separate the issue of selection for execution services from the provision of other services such as research?

5. Has compliance with the obligation in MiFID to obtain the best possible result for clients when transmitting their orders or placing orders based on decisions to deal on behalf of clients led to any significant changes to the way you go about this?

POST TRANSACTION PERFORMANCE APPRAISAL

The focus here is to gauge what monitoring processes firms have in place to ensure the investment firms they are using to execute their orders are achieving best execution on a consistent basis as well as to ascertain if firms are using the information sources - be they internal or external – available to inform the selection and switching of investment firms to execute their orders.

1. How do you monitor the quality of execution you receive from the investment firms to whom you transmit orders or with whom you place orders? How often do you monitor execution quality?

2. How do you carry out your annual review of your policy and arrangements for achieving the best possible results for the orders you give to other investment firms?

3. What information do the investment firms who execute your orders provide you with about the quality of execution that they achieve?

4. Do you use external data (such as data provided by data vendors or execution venues) to monitor/review execution venue performance? If so, what type of external data do you use?

5. Are there any problems in obtaining or analysing data?

TRANSMITTING OR PLACING ORDERS WITH OTHER INVESTMENT FIRMS FOR CLASSES OF FINANCIAL INSTRUMENTS OTHER THAN SHARES

If your answers to the above questions would be significantly different for classes of financial instruments other than shares, please set out and explain the differences specifying to which class of financial instruments they relate.

Section 4 - Execution Venues

In order to deliver the *best possible result*, firms must select suitable execution venues to execute their trades. Making this selection depends in large part on the availability of data on execution quality at the execution venues. The focus here therefore is to gauge whether appropriate data is made available by the execution venues and whether users of the execution venues are requesting/using historical trade data to carry out adequate monitoring and reviews of execution venues.

INFORMATION PROVIDED TO USERS

1. What information/data do you provide to users of your execution venue to enable them to evaluate the quality of execution? Is this typically price and volume data, or do you provide data around other aspects of the best execution requirements such as speed, liquidity and cost?
2. Since the implementation of MiFID, have the level and nature of information requests from your users changed significantly? If so, in what way?
3. Do you provide data in a format that makes it possible for users to compare similar transactions on your execution venue and on other execution venues?
4. Do you have a variety of formats in which this data can be purchased? Have you observed convergence in the data formats/identifiers?
5. What type of data is most frequently purchased from your execution venue?
6. Do users make use of your historical trade data or do they purchase live-feeds only?
7. What type of firm makes most use/demand of your data?
8. Have users of your execution venue provided any feedback on the difficulties they face in comparing your data with other execution venues' data?

EXECUTION PERFORMANCE

1. Have you constructed any measures of liquidity on your execution venue? If so, what measure do you use and what does it show about liquidity on your venue?
2. What percentage of your users has disconnected from your execution venue in the last year?
3. If users have disconnected from your execution venue, what reason have they given?