**NSDA response on ESMA CP re best execution policies**

The Norwegian Securities Dealers Association (NSDA) welcomes the opportunity to comment on ESMA’s consultation on the draft Regulatory Technical Standards (RTS) for order execution policies. We acknowledge the importance of refining regulatory standards but believe that the existing framework already ensures sufficient protection for clients while enabling investment firms to achieve best execution.

**Q1: Do you agree with the proposed categorisation of classes of financial instruments? And could the methodology based on, inter alia, the classification of financial instruments in the MiFID II RTSs 1 and 2 be used in the context of MiFID II transparency reporting be an alternative? Please state the reasons for your answers.**

NSDA does not agree with the proposed detailed classification of financial instruments. The current rules and execution policies are already comprehensive enough to ensure that clients receive the best execution. Introducing additional classifications based on CFI codes or MiFID II RTS 1 & 2 would overly complicate the system without added benefit for clients. The liquidity of instruments, which fluctuates over time, is already a key consideration in execution policies, and further classification would not improve outcomes for clients.

**Q2: Do you believe that the current wording of the RTS is clear and sufficient with regard to the content of the order execution policy where an investment firm selects only one execution venue to execute all client orders? Or should the RTS provide for specific criteria to be taken into account when assessing if the selected venue achieves the best possible result in the execution of client orders? Please also state the reasons for your answer.**

We find the existing wording of the RTS to be clear and sufficient for assessing whether a single execution venue achieves the best possible result for clients. There is no need for further elaboration or modification in this regard.

**Q3: Do you agree with the proposed factor of “order sizes” respectively for retail and professional clients, to be considered in investment firms’ selection of eligible execution venues in their order execution policy and internal execution arrangements (see Article 4(1)(d)(i) and ii) of the draft RTS)? If not, what alternative factor would you propose?**

NSDA disagrees with the proposal to include order size as a specific factor for selecting execution venues. The selection of execution venues is already optimized through a comprehensive process that accounts for all relevant factors, including asset class and liquidity. Introducing arbitrary thresholds for order size would complicate the execution process without providing meaningful benefit to clients.

**Q4: Do you agree with ESMA’s proposals for the specification of the criteria for establishing and assessing the effectiveness of investment firms’ order execution policies? Please also state the reasons for your answer.**

We believe the current framework is sufficient to ensure best execution. Investment firms already make decisions based on real-time data from primary sources to achieve the best execution for clients. Requiring the use of consolidated tape (CT) data, which may introduce delays, would not improve execution quality. Thus, it is critical that the use of CT data remains optional.

**Q5: Do you agree with ESMA’s proposal that investment firms may rely on monitoring and assessments performed by third parties, such as independent data providers, as long as firms assess the processes of these third parties? Please also state the reasons for your answer.**

We agree that investment firms should be allowed to rely on third-party monitoring and assessments, provided that firms ensure the robustness of these third-party processes.

**Q6: Concerning the specific client instruction, should it be possible for an investment firm to pre-select an execution venue in the order screen, where the firm invites its clients to choose an executing venue out of multiple options? And if so, do you agree that only if the client chooses a different venue than the one pre-selected by the firm, the choice of execution venue does constitute a specific instruction? Please also state the reasons for your answer.**

Pre-selection of execution venues should be handled carefully to avoid undermining best execution principles. While there may be practical reasons for pre-selecting certain venues for specific asset classes, any pre-selection must be regularly reviewed to ensure it continues to reflect the best interests of clients.

**Q7: Where an investment firm executes client orders by dealing on own account (including back-to-back trading), in light of the specificity of this execution model and since it is bound by the rules governing best execution, do you believe the current text is clear with regard to what kind of obligations investment firm applying such model 17 should comply with? Or do you believe it would be useful to provide in the RTS list and explanations of information that should be included in the order execution policy, such as related to the method and steps to be taken by the firm to establish the price of client transactions in back-to-back trading, or the methodology for the firm’s application of mark-ups or mark-downs in such order executions? Please also state the reasons for your answer.**

The current rules governing the handling of conflicts of interest in relation to dealing on own account are sufficient. Firms already address these issues comprehensively within their existing best execution policies.

**Q8: Are there any additional comments that you would like to raise and/or information that you would like to provide (for example, relevant information in relation to any expected costs and benefits arising from the proposals)?**

The Norwegian Securities Dealers Association (NSDA) supports the general views expressed by the Swedish Securities Markets Association (SSMA) in their response to this consultation. We agree that many of the proposals are overly complex and unnecessary. The existing regulations already offer robust protection to clients, and the addition of further detailed requirements may result in increased costs and more cumbersome policies without delivering meaningful improvements in execution quality for clients.

In particular, NSDA shares the strong concerns raised by the SSMA regarding the potential use of Consolidated Tape (CT) data as a mandatory element in assessing best execution. We believe that relying on CT data will not provide an accurate or reliable representation of pre-trade or execution quality. The inherent latency and the aggregation of data from multiple sources risk creating a distorted or incomplete view of market conditions, effectively turning the CT into a flawed mechanism that neither reflects real-time pre-trade transparency nor the true quality of execution. The imposition of CT data may lead to delays, poor execution outcomes, and opportunities for misuse, all of which would ultimately harm clients.

We emphasize that best execution decisions must be made using real-time data directly from primary venues. Waiting for delayed CT data would undermine the fast and competitive nature of order execution, potentially allowing market participants to exploit the time lag to the detriment of clients. Therefore, we strongly believe that the use of CT data should not be mandated, and investment firms should continue to rely on the most immediate and reliable data sources available.