ESBG

ESMA review of the MiFID II Best Execution Reporting Regime

Consultation response - Executive summary

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The RTSs 27 (and 28) currently regulates the best execution reporting by execution venues and investment firms. We understand that the crucial question for RTS 27 reports is if these reports should be re-instated. Based on the evidence we have with these reports so far, we do not think that they provide meaningful information which justifies the efforts of producing these reports. Neither have these reports been widely used by prospective recipients so far (measured by observed page views) nor are they helpful for investment firm's own decisions to determine suitable best execution venues. We do not expect that the proposed modifications of RTS 27 reports would change that. Therefore, we welcome the European Commissions's proposal to delete the Art. 27 (3) [RTS 27] as part of the Capital Markets Union package.

Two proposed categories concerning shares

It makes sense to limit the best execution reporting requirements with regard to: (1) Equity instruments whether the instruments are considered to have a liquid market or not and to classify them according to the asset classes defined in RTS 2 (delegated regulation 2017/587) and (2) Non-equity instruments to liquid instruments and to cluster according to the asset classes set forth in RTS 2 (delegated regulation 2017/583). In addition, the amendment contemplated for Art. 27(3) of the MiFID is consistent since the new approach no longer refers to a specific financial instrument but rather to an asset class.

Metrics

We oppose the introduction of a so-called "median transaction". So far, the necessary data in order to easily determine the parameters of such a "median transaction" is not stored in the corresponding systems of the institutions. In addition, in regard of equity instruments traded on a trading venue, there may be such a thing as a median transaction, the publication of which could lead to a knowledge gain for the market. However, with regard to non-equity instruments, such publication of data would be much more complex and, in the context of derivatives, outright meaningless. As a result, the institutions would have a very high cost for no or little gain in knowledge for the market.

RTS 28

We understand that the crucial question for RTS 28 reports is if this requirement should be maintained. Based on the evidence we have with these reports so far, we do not think that they provide meaningful information which justifies the efforts in producing these reports. We could not observe any significant use by customers and therefore consider the market relevance of the reports very low. Relevance of the RTS 28 reports is apparently for regulatory purposes only. We do not think that modifications to the RTS 28 reports will significantly change this outcome. Therefore, the RTS 28 reports should be abolished.

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