

ESMA Consultation on the Technical Standards specifying the criteria for establishing and assessing the effectiveness of investment firms' order execution policies

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Introduction

Etrading Software (ETS) designs, builds and operates technology solutions for the global capital markets. We operate regulatory-led capital market infrastructures that combine robust governance and transparency with high operational efficiency. We also operate market-led infrastructures that provide automated solutions to our clients for previously manual processes. Our focus on governance, efficiency and automation has resulted in our solutions being sought after by the overseers and operators of global capital markets.

ETS is a declared bidder to become authorised as the Consolidated Tape Provider (CTP) for the EU bond markets, driven by a user-centred cost-plus model supported by robust governance and pricing strategies.

Response to Question 4

As a declared bidder for the consolidated tape, ETS underlines that the ability to use the consolidated tape as a means to assess execution is a key use case for end-users. We agree with the assessment by ESMA on the specification of the criteria for establishing and assessing the effectiveness of investment firms' order execution policies. We appreciate that this also sustains commercial models and business cases for prospective CTP providers. At the same time, we note a number of inconsistencies in the draft RTS.

ETS wants to underline that it was a clear intention amongst the co-legislators that mandatory consumption of the consolidated tape was not an objective of the MiFIR Review. We believe that any reference to *de facto* mandatory consumption could undermine support for the consolidated tape amongst market participants and stakeholders.

We note that that market participants have various means at their disposal to assess execution quality including, but not limited to (existing) commercial data vendors. At the same time, we do believe that the CT will be in the best position to enable market participants access to all core market data in a consolidated, standardised and authoritative overview.

The CT will provide data that is validated and normalised in a single and unambiguous format rather than those set by a provider. It will be subject to data quality standards that are set out in Art 22b of the MiFIR Review. Contrary to commercial reference data providers, the CT will also be subject to direct authorisation, supervision and enforcement by ESMA. As such, the CT

will in any case be an available, preferred, authoritative, supervised and straightforward means to assess execution quality.

While the CT will be a key, preferred and straightforward means to assess execution quality that will ensure a certain quality benchmark, we are cautious about any references that could effectively imply mandatory consumption as execution quality is dependent on multiple variables that may be out of scope of CT data. We note that Article 5(2)(b) and Article 7(2)(a) of the draft RTS seem to suggest that only when consolidated tape data is not available, alternative sources may be used. We believe such cases are highly unlikely, while at the same time this provision seems to imply that consumption of the CT will in that case be mandatory.

We also note that this provision is not consistent with recital 11 that states that: *Once and where available, the data provided by the consolidated tapes will be valuable and the preferred source for assessing the quality of execution.* In addition, Article 4(2) states the following: *For the purpose of taking into account the criterion of price in accordance with paragraph 1, point (g), an investment firm shall use the consolidated tape data or alternative datasets, provided the alternative dataset provides at least the same reference data quality as the consolidated tape data.*

To ensure consistent support for the CT and alignment with the wider goals and objectives of the co-legislators, we suggest a very simple amendment in Art 5(2) as follows:

(b) alternative data sources, ~~where consolidated tape data is not available or~~ where the firm is able to demonstrate that an alternative dataset provides at least the same reference data quality;

And amending Article 7(2) as follows:

The assessments referred to in paragraph 1 shall assess at least the following factors: (a) the price of execution compared to a reference dataset based on consolidated tape data ~~or, where such data is unavailable or~~ where an alternative dataset provides at least the same reference data quality, alternative reference datasets