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Additional Information

Level 1 Regulation
Markets in Financial Instruments Directive II (MiFID II) Directive 2014/65/EU- Secondary Markets

Topic
Ancillary activity

Subject Matter
Ancillary activity excemption

Question
When does a firm that can no longer make use of the ancillary activity exemption need to apply for a license?

ESMA Answer

23-09-2022

Original language

[ESMA70-872942901-36 Commodity derivatives, Ancillary activities, Q&A 7]

When a person’s trading activity increases to such an extent that it can no longer be considered to be ancillary to its main business under Article 2(1)(j) of MIFID II, the firm must apply to the competent authority for a license.

The calculations for the ancillary activity test must be carried out annually in the first quarter of the calendar year that follows an annual calculation. Where, based on those calculations, a person’s trading can no longer be considered to be ancillary to its main business, the firm must apply to the competent authority for an authorisation as soon as reasonably practicable.