ESMA_QA_1488

Submission Date
05/12/2019

Status: Answer Published

Additional Information

Level 1 Regulation
Markets in Financial Instruments Regulation (MiFIR) Regulation (EU) No 600/2014- Secondary Markets

Level 3 Regulation
ESMA70-872942901-38 - Q&A on MiFID II and MiFIR market structures topics

Topic
Direct Electronic Access and algorithmic trading

Subject Matter
Direct Electronic Access (DEA) and algorithmic trading - Trading systems - RTS 7

Question

To which types of trading systems does Commission Delegated Regulation (EU) 2017/584 RTS 7 apply? In particular, are trading venues without auto-matching trading systems or that explicitly prohibit algorithmic trading subject to the provisions of RTS 7?

ESMA Answer

05-12-2019

Original language

[ESMA 70-872942901-38 MiFID II MiFIR market structures Q&A, Q&A 3.31]

Article 1 of RTS 7 limits the scope of application of RTS 7 to trading venues which "*allow or enable algorithmic trading*". Article 1(2) of RTS 7 defines those venues as trading venues "*where order submission and order matching is facilitated by electronic means*". The rationale is explained in Recital 3 which clarifies that "*risks arising from algorithmic trading can be present in any type of trading system that is supported by electronic means*".

ESMA further notes that Recital 5 of RTS 7 explicitly refers to request-for-quote systems, where transactions are usually not automatically executed based on pre-set parameters and logic (i.e. no auto-matching protocols), as being within the scope of the RTS. ESMA therefore consider that the absence of an auto-matching protocol should not exclude the trading venue operating such system from the scope of RTS 7.

Similarly, an explicit prohibition of algorithmic trading does not appear sufficient for the trading venue to be excluded from the scope of the RTS considering the definition of trading venues allowing or enabling algorithmic trading provided under Article 1(2).

Nevertheless, regarding the specific application of the provisions contained in RTS 7, Recital 5 clarifies that (i) "*some organisational requirements may not be appropriate for certain trading models although their trading systems could be supported to a certain extent by electronic means*" and that (ii) "*the specific requirements to be set in relation to request-for-quote systems or hybrid systems should be considered according to the nature, scale and*

complexity of the algorithmic trading activity undertaken". ESMA would for instance consider it unreasonable to require a trading venue that explicitly prohibits algorithmic trading to offer to its clients a simulation facility for testing algorithms in conditions that are as realistic as possible (Article 10(2) of RTS 7).

Lastly, Recital 3 clarifies that voice trading systems are excluded from the scope of RTS 7. It is however important to stress that trading venues operating such systems remain subject to the organisational requirements prescribed under Article 48(1) of MiFID II.