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Status: Answer Published

Additional Information

Level 1 Regulation

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

Topic

Direct Electronic Access and algorithmic trading

Subject Matter

Direct Electronic Access (DEA) and algorithmic trading - Article 17 of MiFID II and RTS 6 - Third party systems with algorithmic trading functionalities

Question

How should firms ensure compliance with the requirements in Article 17 of MiFID II and RTS 6 when using third party systems which offer algorithmic trading functionalities?

ESMA Answer

[ESMA 70-872942901-38 MiFID II MiFIR market structures Q&A, Q&A 3.34]

When firms use third party systems offering algorithmic trading functionalities, they are ultimately responsible for compliance with the relevant requirements in Article 17 of MiFID II and RTS 6, as specifically detailed in Article 4 or RTS 6. However, lacking direct control over the system, its operation and the algorithms deployed, these firms might not be materially able to ensure that all requirements are met.

In such instances, firms can ensure compliance with those technical requirements that cannot be otherwise met by the firm itself through contractual arrangements with the system provider, where the latter commits to ensure that the system, its operation and the algorithms deployed are compliant with the relevant legal requirements.