ESMA_QA_1601

Submission Date
03/04/2017

Status: Answer Published

Additional Information

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

Level 2 Regulation
Regulation 2017/565 - MiFID II Delegated Regulation

Topic
Direct Electronic Access and algorithmic trading

Subject Matter
High-Frequency Trading (HFT) technique - Identification and authorisation

Question

How should the identification and authorisation take place for those firms applying a High-Frequency Trading (HFT) technique?

ESMA Answer

03-04-2017

Original language

[ESMA 70-872942901-38 MiFID II MiFIR market structures Q&A, Q&A 3.5]

The mechanics of identifying whether a firm is deemed to be applying a HFT technique are detailed in Article 19 of Commission Delegated Regulation (EU) 2017/565. Firms should review their trading activities at least on a monthly basis to self-assess whether an authorisation requirement has been triggered over the course of the period in question. Upon request, trading venues must provide their members, participants or clients with an estimate of the average number of messages per second two weeks after the end of each calendar month. For this purpose, trading venues should only include messages generated by algorithmic trading activity as identified by the member, participant or client.

However, the onus remains on firms to ensure that the estimates provided by the trading venues accurately reflect their actual trading activity (and in particular that it only takes into account proprietary algorithmic trading activity on liquid instruments excluding, in the case of DEA providers, messages sent by DEA clients using the firm’s code).

Where a firm engages in HFT (as described above) and is not authorised as an investment firm under MiFID II, the firm is required to immediately seek authorisation as required under Article 2(1)(d)(iii) of MiFID II.

ESMA reminds that any firm engaged in algorithmic trading (including HFT) has to notify this circumstance to the national competent authority of its home Member State and to the national competent authorities of the trading venues at which it engages in algorithmic trading as member or participant.