

Submission Date

03/04/2017

ESMA_QA_1602

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

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

DEA users - HFT technique

Question

Can DEA users be identified as applying a HFT technique?

ESMA Answer

03-04-2017

Original language

[ESMA 70-872942901-38 MiFID II MiFIR market structures Q&A, Q&A 3.6]

Yes. As clarified under Recital 20 of Commission Delegated Regulation (EU) 2017/565, DEA users may be classified as HFTs if they meet the conditions set out under Article 4(1)(40) of MiFID II and Article 19 Commission Delegated Regulation (EU) 2017/565.

In order to assess whether a DEA user meets the applicable message thresholds, firms accessing trading venues through DEA may contact their DEA provider which is obliged to record the data relating to the orders submitted, including modifications and cancellations under Article 21(5) of RTS 6^[1].

However, the onus remains on investment firms to ensure that the estimates provided by the DEA providers accurately reflect their actual trading activity (and in particular that it only takes into account proprietary trading activity on liquid instruments excluding, in the case of DEA users sub-delegating the DEA provider's code, messages sent by their own DEA clients).

^[1] Commission Delegated Regulation (EU) 2017/589 of 19 July 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the organisational requirements of investment firms engaged in algorithmic trading (OJ L 87, 31.3.2017, p. 417–448).