

**Submission Date** 

03/04/2017

**ESMA\_QA\_1607** 

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**

Direct Electronic Access (DEA) and algorithmic trading

#### **Ouestion**

Article 20 of Commission Delegated Regulation (EU) 2017/565 further clarifies the definition of direct electronic access as per Article 4(1)(41) of MiFID II by stating that persons shall be considered not capable of electronically transmitting orders relating to a financial instrument directly to a trading venue in accordance with Article 4(1)(41) of MiFID II where that person cannot exercise discretion regarding the exact fraction of a second of order entry and the lifetime of the order within that timeframe. What does "exercise discretion regarding the exact fraction of a second" mean?

## **ESMA** Answer

03-04-2017

Original language

[ESMA 70-872942901-38 MiFID II MiFIR market structures Q&A, Q&A 3.11]

One of the benefits of accessing a trading venue by DEA is in the ability of the firm submitting the order to exercise greater control over the timing of order submission. The use of DEA without passing through appropriate control filters of the provider of DEA and those of the trading venue, is not permitted under MiFID II. Such filters add minimal, but a finite amount of delay to the order reaching the matching engine of the trading venue and as such some may preclude the possibility of a firm submitting such an order to exercise discretion regarding the exact fraction of a second.

However, the phrase in question should be construed as whether the DEA user in question is able to exercise discretion regarding the exact fraction of a second in sending an order, not the exact timing of an order reaching the matching engine. This is a natural interpretation given that current network routing technology cannot provide certainty for a message to reach its destination with the precision of "exact fraction of a second".