

**Submission Date**

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# ESMA\_QA\_1609

Status: Answer Published

## **Additional Information**

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### **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**

Record-keeping obligations of HFT firms - non-algorithmic trading desks

## **Question**

Does the format established for the record-keeping obligations of HFT firms established in RTS 6 apply to their non-algorithmic trading desks?

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Original language

[ESMA 70-872942901-38 MiFID II MiFIR market structures Q&A, Q&A 3.13]

In addition to the general obligation of investment firms to maintain records of all orders and transactions in financial instruments under Article 25 of MiFIR, Article 17(2) of MiFID II establishes the obligation of investment firms engaged in HFT “to store in an approved form accurate and time sequenced records of all its placed orders, including cancellations of orders, executed orders and quotations on trading venues”.

For investment firms simultaneously engaging in HFT and non-HFT activities there are two formats that have to be considered:

- The format established in Annex 2 of RTS 6 has to be used to record the messaging activity related to activity using HFT technique. ESMA considers that ‘activity using HFT technique’ only includes the algorithmic proprietary trading activity of the firm on a trading venue with respect to any liquid instruments (see Article 19 of Commission Delegated Regulation (EU) 2017/565).

With respect of the timestamping of those records (see fields 23 and 24 of table 3 of Annex II of RTS 6), the activity using HFT technique has to be timestamped within 1 microsecond or better (Table 2 of Annex to RTS 25, to which RTS 6 cross-refers).

- Non-HFT activity has to be recorded under the format established by Commission Delegated Regulation (EU) 2017/565. However, nothing prevents these investment firms from using Annex 2 of RTS 6 to record their non-HFT trading activity if their NCA so agrees.

ESMA reminds that all other non-HFT algorithmic trading activity should be timestamped in one millisecond or better as provided for under ‘any other trading activity’ as specified in Table 2 of the Annex of RTS 25, to which Commission Delegated Regulation (EU) 2017/565 cross-refers.