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Additional Information

Level 1 Regulation

Markets in Financial Instruments Regulation (MiFIR) Regulation (EU) No 600/2014-
Secondary Markets

Topic

Direct Electronic Access and algorithmic trading

Subject Matter

Direct Electronic Access (DEA) and algorithmic trading

Question

Under Article 3(2)(a) of Commission Delegated Regulation (EU) 2017/580 (RTS 24), there is a requirement to flag orders submitted to a trading venue “as part of a market making strategy pursuant to Articles 17 and 48 of [MiFID II]”. Should a firm start flagging orders when it decides to submit orders with a view to make markets in a particular instrument, or only

when it concludes a formal agreement with the trading venue subsequent to triggering such an obligation under Article 1 of Commission Delegated Regulation (EU) 2017/578 (RTS 8)?

ESMA Answer

07-07-2017

Original language

[ESMA 70-872942901-38 MiFID II MiFIR market structures Q&A, Q&A 3.17]

The primary purpose of flagging as required under Article 3(2)(a) of RTS 24 is to enable efficient detection of market manipulation by distinguishing the order flow from an investment firm based on pre-determined terms established by the issuer or the trading venue from the order flow of the investment firm acting at its own discretion (see Recital 6 of RTS 24).

ESMA therefore expects that only those orders submitted to a trading venue as part of a market making strategy subsequent to the conclusion of a market making agreement with the relevant trading venue should be flagged as such in field 8 as designated in Table 2 of the Annex of RTS 24. The same applies to field 3 of Table 3 of Annex II of RTS 6.