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Additional Information

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

Level 2 Regulation
Regulation 2017/589 - RTS specifying the organisational requirements for investment firms (RTS 6)

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

Provisions of Article 17(6) of MiFID II and of Chapter IV of RTS 6

Question
Do the provisions of Article 17(6) of MiFID II and of Chapter IV of RTS 6 apply to all general clearing members or only to those clearing members having algorithmic traders as clients?

ESMA Answer

04-10-2018

Original language

[ESMA 70-872942901-38 MiFID II MiFIR market structures Q&A, Q&A 3.28]

Article 17(6) of MiFID II targets investment firms acting as general clearing members, without mentioning algorithmic trading nor restricting the scope to those clearing members having algorithmic traders as clients. Therefore, Article 17(6) should be interpreted as applying to all firms acting as general clearing members, regardless of the nature of their clients. Analogously, the provisions in Chapter IV of RTS 6 are drafted without any reference to algorithmic trading and should apply to all general clearing members. This reading is reinforced by Recital 1 of RTS 6, which defines the scope of RTS 6 differentiating on the one hand “Investment firms engaged in algorithmic trading” and, on the other hand, those “providing direct electronic access or acting as general clearing members”.

The title of Article 17 and RTS 6 should not be interpreted as narrowing the scope of the provisions in question, but rather suggesting that the issues addressed are more prominent with respect to algorithmic trading.