

**Submission Date**

04/10/2018

# ESMA\_QA\_1623

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

### **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**

### 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

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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.