

Submission Date

04/10/2018

ESMA_QA_1639

Status: Answer Published

Additional Information

Level 1 Regulation

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

Topic

Multilateral and bilateral systems

Subject Matter

Can a trading venue use its trading systems and platforms to arrange transactions that are then reported and ultimately executed on another trading venue?

Question

Can a trading venue use its trading systems and platforms to arrange transactions that are then reported and ultimately executed on another trading venue?

ESMA Answer

04-10-2018

Original language

[ESMA 70-872942901-38 MiFID II MiFIR market structures Q&A, Q&A 5.7]

No, the fundamental characteristic of a trading venue is to execute transactions.

As defined under Article 4(1)(21), (22) and (23) of MiFID II, trading venues under all its possible forms as regulated market, multilateral trading facility and organised trading facility are multilateral systems “which bring together multiple third-party buying and selling interests in financial instruments [...] in a way that results in a contract”. Therefore, a trading venue should not be allowed to arrange transactions without formalising the execution of those transactions under its rules and systems. ESMA has also already clarified that a transaction cannot be concluded on more than one trading venue at the same time.

However, where a trading venue is operated by an investment firm, ESMA considers that these investment firms can arrange transactions as a provider of investment services listed under points (1), (2) or (3) in section A of Annex I of MiFID II, should the investment firm be authorised for the provision of such investment services. This is without prejudice to the guidance provided by ESMA in Q&A10 of section 5.2 clarifying the characteristics of an OTF and, more generally, what constitutes a multilateral activity and should be authorised as such.