

Submission Date

03/04/2017

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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

Organized Trading facilities OTFs -

Question

Can an SI and an OTF be operated by the same legal entity when they do not trade the same instruments or class of instruments (e.g. an SI in equities and an OTF in derivatives)?

ESMA Answer

03-04-2017

Original language

[ESMA 70-872942901-38 MiFID II MiFIR market structures Q&A, Q&A 5.15]

No. ESMA is of the view that the very general wording of Article 20(4) of MiFID II introduces a blanket prohibition of the combination of the OTF and SI activities by the same legal entity across asset classes and instruments. This blanket prohibition also addresses circumstances under which an investment firm would be operating an OTF and an SI in different asset classes, while being potentially subject to similar conflicts of interests as the ones associated with being an OTF and an SI in the same asset class or instrument. This would be the case, for instance, with an investment firm operating an OTF in equity derivatives while being an SI in the underlying equities.