

**Submission Date**

03/04/2017

# ESMA\_QA\_1652

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

### **Topic**

Multilateral and bilateral systems

### **Subject Matter**

Organized Trading facilities OTFs

### **Question**

Does discretion have to be exercised on an order by order basis?

## ESMA Answer

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03-04-2017

Original language

[ESMA 70-872942901-38 MiFID II MiFIR market structures Q&A, Q&A 5.20]

ESMA is of the view that discretion at order level (see Answer 12) does not have to be exercised order by order. As an example, the OTF operator may consider, at a given point in time that some or all orders of a specific size in a specific instrument should be retracted from the OTF as more favourable conditions are temporarily available elsewhere. However, the OTF operator must have the ability to exercise discretion at order level if circumstances so require, for instance in case of prior execution of an order on another trading venue.

Conversely, ESMA is of the view that, at execution level, discretion whether not to match two potential matching buying and selling interests can only be meaningfully exercised at order level.