

**Submission Date**

02/04/2019

# ESMA\_QA\_1665

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**

Access to CCPs and trading venues

## **Subject Matter**

Third country trading venue request access to an EU CCP in the absence of an equivalence decision

## **Question**

Can a third country trading venue request access to an EU CCP under Article 38 of MiFIR in the absence of an equivalence decision under Article 28(4) of MiFIR?

## ESMA Answer

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02-04-2019

Original language

[ESMA 70-872942901-38 MiFID II MiFIR market structures Q&A, Q&A 6.7]

Article 38 of MiFIR governs third-country access requests relating to transferable securities, money market instruments and exchange-traded derivatives.

ESMA considers that an equivalence decision under Article 28(4) of MiFIR is only necessary if the third-country trading venue wishes to enter into an access arrangement with an EU CCP covering derivatives subject to the trading obligation to the extent that they are traded on a regulated market.

In the absence of an equivalence decision under Article 28(4) of MiFIR, third-country trading venues can enter into access arrangements (and maintain existing access arrangements) with EU CCPs for transferable securities, money market instruments and derivatives, to the extent that they are not subject to the trading obligation.

ESMA recalls that access requests covering derivatives traded on OTFs and MTFs are subject to the EMIR access provisions.