Getting started on MiFID II / MiFIR projects: High frequency and algorithmic trading obligations

The table below sets out some of the key Level 1 and Level 2 MiFID II / MiFIR provisions on high frequency and algorithmic trading obligations. However, the table is not intended to provide the definitive position on all applicable measures and clients should contact their usual financial services contact at Norton Rose Fulbright LLP.

Topic and Level 1 provisions		Level 2 provisions	Level 3 provisions
Definition – algorithmic trading	Article 4(1)(39) of MiFID II	Article 18 of Commission Delegated Regulation of 25 April 2016 as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of MiFID II	
Definition – high-frequency algorithmic trading technique	Article 4(1)(40) of MiFID II	Article 19 of Commission Delegated Regulation of 25 April 2016 as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of MiFID II	
Definition – direct electronic access	Article 4(1)(41) of MiFID II	Article 20 of Commission Delegated Regulation of 25 April 2016 as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of MiFID II	
Exemption - dealing on own account	Article 2(1)(d)(iii) of MiFID II	N/A	
Exemption - for operators with compliance obligations under the Emissions Trading Directive when dealing in emission allowances	Article 2(1)(e) of MiFID II	N/A	
Exemption - ancillary activity	Article 2(1)(j) of MiFID II	Articles 1 to 6 of Commission Delegated Regulation of 1 December 2016 laying down regulatory technical standards for the criteria to establish when an activity is considered to be ancillary to the main business	ESMA Q&A on MiFID II and MiFIR commodity derivatives topics

Algorithmic trading	Article 17 of MiFID II	Articles 1 to 29 of Commission Delegated Regulation of 19 July 2016 with regard to regulatory technical standards specifying the organisational requirements of investment firms engaged in algorithmic trading Article 3 of Commission Delegated Regulation of 13 June 2016 with regard to regulatory technical standards specifying the requirements on market making agreements and schemes	ESMA Q&A on MiFID II and MiFIR market structures topics
Market making	Articles 17(4) and (5) and 48(2) of MiFD II	Articles 19 to 23 of Commission Delegated Regulation of 19 July 2016 with regard to regulatory technical standards specifying the organisational requirements of investment firms engaged in algorithmic trading Articles 1 to 8 of Commission Delegated Regulation of 13 June 2016 with regard to regulatory technical standards specifying the requirements on market making agreements and schemes	ESMA Q&A on MiFID II and MiFIR market structures topics
Direct electronic access	Articles 17(5) and 48(7) of MiFID II	Article 21 and 22 Commission Delegated Regulation of 14 July 2016 with regard to regulatory technical standards specifying organisational requirements of trading venues Articles 19 to 23 of Commission Delegated Regulation of 19 July 2016 with regard to regulatory technical standards specifying the organisational requirements of investment firms engaged in algorithmic trading	ESMA Q&A on MiFID II and MiFIR market structures topics
Systems resilience, circuit breakers and electronic trading	Article 48 of MiFID II	Articles 1 to 24 of Commission Delegated Regulation of 14 July 2016 with regard to regulatory technical standards specifying organisational requirements of trading venues Articles 1 to 4 of Commission Delegated Regulation with regard to regulatory technical standards for the ratio of unexecuted orders to transactions in order to prevent disorderly trading conditions	ESMA Q&A on MiFID II and MiFIR market structures topics ESMA guidelines on circuit breakers and publication of trading halts under MiFID II

		Articles 1 to 6 of [Commission Delegated Regulation of 6 June 2016 with regard to regulatory technical standards on requirements to ensure fair and non-discriminatory co-location services and fee structures](#)	
		Articles 1 and 2 of [Commission Delegated Regulation of 26 May 2016 with regard to regulatory technical standards for the determination of a material market in terms of liquidity in relation to notifications of a temporary halt in trading](#)	
		Article 1 to 8 of [Commission Delegated Regulation of 13 June 2016 laying down regulatory technical standards specifying the requirements on market making agreements and schemes](#)	
Tick sizes	Article 49 of [MiFID II](#)	Articles 1 to 6 of [Commission Delegated Regulation of 14 July 2016 laying down regulatory technical standards on the tick size regime for shares, depositary receipts and exchange traded funds](#)	[ESMA Q&A on MiFID II and MiFIR market structures topics](#)