

Summary of questions

Swedish Securities Markets Association (SSMA) welcomes the opportunity to respond to this ESMA consultation regarding Algorithmic Trading.

As general remark the SSMA believes that the development of algorithmic trading has been essential to improve markets towards more efficient quality execution for both institutional investors and retail clients. In the current fragmented market structure with many Regulated Markets, MTFs and SIs algorithms also have a very central role in providing an aggregated European Best Bid Offer (EBBO) spread and access to liquidity on different execution venues. Access to the EBBO and liquidity is essential to be able to provide best execution.

Since algorithms are so central to the whole market infrastructure it is important that they are well tested and robust before they are deployed. The Mifid II regulation for algorithmic trading aims at securing that this is effectuated in practice. SSMA believes that the regulation is effective and has fulfilled its purpose. SSMA therefore as a general comment sees little need to impose further regulatory demands in this area. There could even be room to relax some rules. It is worth noting that providers and users of algorithms have a very strong incentive from a pure business perspective to secure that their algorithms are well tested and safe to deploy. Failing algorithms could apart from potential market disturbances create huge losses and reputational risks. SSMA therefore is of the opinion that more focus should be on the exchanges to provide stable trading and test environments rather than put more regulatory burdens on investment firms use of algorithms.

Q1: What is your overall assessment of the MiFID II framework for algorithmic trading, HFT and DEA?

As a general comment Mifid II has meant more administration and extra layers of control, which has made it more complex and costly to work with algorithmic trading, HFT and DEA. The regulation has become too comprehensive and complex with many formal routines that do not improve the processes in this area. Most of the issues that are now formally regulated were already dealt with from a risk and business perspective by the investment firms. The risks of deploying untested and unsafe algorithms are just too great and can produce both huge losses and reputational damages.

Q2: In your views, are there risks other than the one mentioned in MiFID II or impacts on market structure developments due to market electronification/ algorithmic trading that would deserve further regulatory attention? Please elaborate.

SSMA has not experienced other risks related to algorithmic trading that need further regulatory attention. The relevant risks are already regulated and there is also a strong incentive from a business perspective to have robust and well tested algorithms.

Q3: Do you consider that the potential risks attached to algorithmic trading should also be given consideration in other trading areas? Please elaborate.

SSMA do not see any need to widen the scope and pure OTC trading should be kept outside this regulation. It should only affect activities that has the potential to disrupt trading in on exchange electronic order books.

Q4: Do you agree with this analysis? If not, please explain why.

SSMA agrees to the analysis. All entities that use technology to directly access trading venues should have the same rules. There should however not be further expansion of new rules rather enforce the existing rules.

Q5: Did you encounter any specific issue with the definition of HFT? Do you consider that the definition should be amended? Do you have any suggestion to replace the high message intraday rates with other criteria or amend the thresholds currently set in Level 2? Please elaborate and provide data supporting your response where available.

SSMA has no major issue with the definition as such. There should however be a clearer distinction between HFT and MM activities. Both have high intraday messages, but for very different reasons. Market making in own instruments could be exempted from the HFT definition.

Q6: Based on your experience, is sub-delegation of DMA access a frequent practice? In which circumstances? Which benefits does it provide to the DEA user and to the subdelegates? Are you aware of sub delegation arrangements in the context of Sponsored access? If so, please elaborate.

SSMA members does not believe this is a very frequent practice, but notices that it is used to some extent by some members. SSMA does not see a need for further regulations in this area. The main benefit with sub-delegation is to give clients an easier access to the market. SSMA has no experience of delegation of Sponsored access. Firms that use a sub-delegated access must of course adhere to the same rules and there might be a need to analyse the due diligence processes that govern this area.

Q7: (for DEA Tier 1clients) Do you sub-delegate direct electronic access? If so, are your Tier 2 clients typically regulated entities/investment firms? Are they EU-based or thirdcountry based?

SSMA members does not engage in this activity and has therefore no view.

Q8: Do you agree with this analysis? If not, please explain why. Do you consider that further clarification is needed in this area? If so, what would you suggest?



SSMA agrees with the analysis and do not see any need for further clarifications. The outcome of this analysis is important for the market development.

Q9: Do you agree with ESMA's proposal? If so, do you consider that the requirements considered above relevant? Should there be additional ones? If you disagree with ESMA's proposal, please explain why.

SSMA does not agree. SIs should not fall under this regulation. Continuous two-way quotes towards clients should not be considered algorithmic trading. SI market making is a bilateral quoting system between investment firm and client that has no risk of creating market disturbances since they are not connected to the markets.

Q10: Do you agree with ESMA's proposals above? Please elaborate.

SSMA disagree because it will only create more unnecessary administration.

Q11: Do you agree with ESMA's proposal? Please elaborate.

Not in the consultation – it is missing.

Q12: Do you see merit in ESMA developing a template for notifications to NCAs under Articles 17(2) and 17(5) of MiFID II? If not, please justify your position.

SSMA agrees if it does not involve more administrative work for investment firms.

Q13: Do you agree that it would be useful to clarify that notifications should be done 'without undue delay'?

SSMA agrees that it should be clarified.

Q14: Do you agree with ESMA's approach for the exchange of information between NCAs? If not, please justify your position.

SSMA agrees.

Q15: What is your view on clarifying the definition of algorithmic trading? If you deem it beneficial to refine the definition and account for further types of algorithms or algorithmic trading strategies, please provide your suggestion as well as underlying rationale.



SSMA believes it should be made clearer what does not fall under this regulation. SSMA does not want an expansion of the scope so that more trading activities fall under this regulation. SI quoting should for example not be included – see Q9.

Q16: Do you think there should be specific requirements for different type of algorithms or algorithmic trading strategies in RTS 6? Please explain.

SSMA sees no real reason to have different requirements for different algorithms. It will probably only create more unnecessary administration. One exception could be for execution only non-investment decision algos, which could have lower requirements since they involve less risk for creating market disturbances.

Q17: What is your experience with testing environments? Are they used frequently? If not, why? Do you see a need for any improvements?

SSMA is of the opinion that test environments provided by exchanges have poor quality with low data quality. Stress testing according to Article 10 of RTS 6 is therefore extremely difficult for market participants due to lack of high market data message rates at exchange test environments. Those exchanges providing high market data message testing often do this at a part of the day when other test environments are closed. Some exchange test environments also have lower limits in test than in production with regard to order message rates. The test environments are however frequently used since it is the only way test algos versus exchanges. It is also difficult to simulate different scenarios with several different test cases. There are definitely needs for large improvements and the aim must be that the exchange testing environments mirror the real trading environments as much as possible. The best way to get realistic stress testing would be if all exchanges have same message order capacity in test as in production and provide high message rate activity during a common specific time window.

Q18: Do you agree that the definition of “disorderly trading conditions” should be clarified? If yes, how would you define such trading conditions?

SSMA believes it should be clarified, but it will not improve the test systems. The testing environment needs to be improved first – see Q17.

Q19: Do you agree that ESMA should provide additional guidance on the expectations concerning the checks and testing to be done, in particular for testing on disorderly trading conditions?

SSMA believes it is hard to test disorderly trading conditions as it is. The exchanges must have better testing systems to enable this. SSMA does not see a need for more formal test cases. Everyone engaging in algorithmic trading is aware of the associated risks and Investment Firms therefore have a strong self-interest to test thoroughly before any algos are deployed.



Q20: Would you agree that it could be beneficial if ESMA develops a prescribed format for the self-assessment foreseen in Article 9 of RTS 6?

SSMA believes it could be beneficial to have a prescribed format that defines the self-assessment requirements. Areas that could benefit from this is to set clear minimum requirements and define when changes to an algorithm is material enough to be a new algo.

Q21: Do you agree with the changes proposed to the self-assessment of Article 9 of RTS 6?

SSMA does not see a need for more formal requirements and administration. We therefore do not think it should be a new formal routine to send this to NCAs.

Q22: Would you propose any other targeted legislative amendments to RTS 6? Please include a detailed explanation of the proposed amendment and of the underlying issue that this amendment would aim to tackle.

SSMA has no view.

Q23: Do you agree with ESMA's proposal to harmonise and create a clear structure for the performance of the self-assessment?

SSMA has no view.

Q24: Do you agree with limiting the self-assessment to every two years and to require trading venues to share it with their relevant NCA?

SSMA has no strong view, but if trading venues only has to do it every second year maybe the same should be required for investment firms.

Q25: Do you agree with ESMA's analysis about the overlapping requirements between RTS 6 and 7? Are those overlaps considered beneficial, should they be removed or are there any gaps? Are there any further points that should be clarified?

SSMA has no view.

Q26: What is your view with regards to the testing of algorithms requirements? Do you agree that more robust testing scenarios should be set?



SSMA does not believe that further formal requirements on testing will be an improvement. We do not believe that more scenarios will improve the quality of the testing it will only add more formal administration. It is better to first improve the exchanges testing environments.

Q27: Are the testing environments available for the testing of algorithms appropriate for this purpose?

SSMA believes it would be fit for purpose if the quality of the test environments were good enough – see Q 17.

Q28: Do you agree with ESMA's analysis that the circuit breaker mechanism achieved its objective to avoid significant disruptions to the orderliness of trading?

SSMA believes circuit breakers are good and fulfil its purpose.

Q29: Do you agree that the requirements under Article 48(5) of MiFID II complemented by RTS 7 and the guidelines on the calibration of circuit breakers and publication of trading halts under MiFID II remain appropriate? If not, what regulatory changes do you deem necessary?

SSMA does not see a need to do regulatory changes.

Q30: Do you agree that the co-location services and fees structures are fair and nondiscriminatory? Please elaborate.

SSMA thinks fee structures are quite fair, but expensive. They are well defined on what the prices are and what is included in the services. The fee development needs however to be followed closely so it does not end up with a similar situation that we see in the market data area, with continuous price increases.

Q31: Do you think that the disclosures under RTS 10 made by the trading venues are sufficient or should they be harmonised among the different entities? Please explain.

SSMA is of the opinion that harmonisation among trading venues is good.

Q32: Do you agree with ESMA's proposal to set out the maximum OTR ratio, calibrated per asset class?

SSMA is of the opinion that this should not be set in the regulation, but rather by the exchanges. The markets should be able to solve this without formal OTR ratios in the regulation.



Q33: Do you agree that the maximum limits are not frequently exceeded? Please explain any potential underlying issues in this respect that should be recognised.

SSMA agrees that it is not frequent, but it happens. Since we believe exchanges are best suited for setting these limits it is important that there are restrictions on how they can be set and what the potential consequences could be.

Q34: Do you agree with the consequences as described of exceeding the maximum limits or should there be a more convergent approach? Please provide any comment or suggestion regarding the procedures in place by trading venues in case of a member exceeding the prescribed limit.

SSMA agrees that the described consequences are quite clear. It is important that this does not become a new source of income for the exchanges. There should be other mechanisms than monetary penalties to prevent exceeding OTR maximums. Stopping or halting orders are better options. There should also be separate rules for market makers since they are obliged to quote two-way prices continuously in many instruments and could easily exceed an OTR maximum when the market moves rapidly. It is in those market conditions that it is important that market makers are quoting and should therefore not be hit by a maximum OTR limit.

Q35: Do you agree with the need to improve the notification process in case of IT incidents and system outages? Beyond the notification process between NCAs and ESMA, which improvements could be done regarding communication of incidents to the public?

SSMA believes the notification process needs to be improved. The main risk is that exchanges get technical problem with close downs of the markets. It is very rarely algos that create major market disturbances. There should be clear back up channels for communicating disturbances to the market.

Q36: Do you believe any initiative should be put forward to ensure there is more continuity on trading in case of an outage on the main market, e.g. by requiring algo traders to use more than one reference data point?

SSMA believes the main initiative must be to make the primary markets more stable. If the main market is down it should not be a demand for algo traders to keep markets running on a different venue with other sources of reference data. Another data source with reference data will not create liquidity anyway since many participants does not want to trade when the primary market is down. We do therefore not want a requirement to use more than one reference data point.

Q37: Do you agree with the view that the tick size regime had overall a positive effect on market depth and transaction costs?



SSMA does not agree that the tick size regime had an overall positive effect on market depth and transaction costs as the tick size table does not properly take the differences in the different market structures in EU properly into account, whereby the tick sizes are too low in some markets/segments/shares and too high in others. The standardization of tick-sizes has however prevented a further “race to the bottom” with ever smaller tick-sizes that we saw after Mifid I.

Q38: Is there any further issue you would like to highlight regarding tick size regime?

SSMA thinks the tick-size regime is too granular with many shares having too small spreads. This have had a negative effect on the lit liquidity in the order books with very limited order depth. Stocks can therefore easier move through several ticks and trigger more re-quoting by HFTs and market makers, which could trigger OTR limits. SSMA also want to draw the attention to the process of setting the tick-size when a share is first admitted to trading in an IPO. Today the routine is to put the share in the highest liquidity band, which means the share gets a very small often 0.01 tick-size. This usually creates poor trading conditions before it is later changed to a more correct tick-size. It would be better to do a quality assessment and compare with similar listed companies to get a more relevant starting tick-size.

Q39: Do You agree with the proposal not to amend the tick size regime for third country shares? Please explain.

SSMA sees a need to analyse this in a post-Brexit context. There is a risk of unlevel playing field if tick-size regimes differ.

Q40: Do you agree with the proposal to widen the scope of the tick size regime to all ETFs? Would this pose challenges in your view? Please explain.

SSMA has no view.

Q41: Do you agree with the proposal not to widen the scope of the tick size regime to non-equity instruments? Please explain.

SSMA agrees. There should be no tick-size regime for non-equity. Tick-size regimes only work for liquid on exchange order driven orderbooks and therefore are only needed for pure equities.

Q42: Do you agree with ESMA findings and assessment of the current MiFID II market making regime?

SSMA in general agrees with the findings. It has been a long practice to have different quoting regimes under “stressed market conditions”. This is important as it creates a possibility to fulfil the

market maker obligation when market conditions are difficult and still provide the market with quotes.

Q43: What do you think of ESMA proposals and suggested amendments to RTS 8? In your view, what other aspects of the market making regime require to be amended and how?

- a. SSMA agrees.
- b. SSMA does not want to broaden the scope of the market making obligation.
- c. SSMA believes that Sweden has a very well-functioning SME market and therefore do not want any changes in that area.

Q44: What are market participants views regarding the flexibility left in the MiFID II market making regime? Would you agree with ESMA further clarifying certain relevant concepts? If yes, which ones?

SSMA view is that the remaining flexibility is good and does not want any further clarifications or rules.

Q45: Could you please describe how Primary Dealers agreements are designed (number of designated Primary Dealers, transparency about investment firms having signed such agreements, typical obligations contained, etc...). Do you consider that Primary Dealers should be exempted from the Article 1 of RTS 8? Do you consider that this can introduce a regulatory loophole?

A Primary Dealer agreement can be designed in several ways. In Sweden the Primary Dealer agreements stipulates a general framework on how the Primary Dealer shall provide quotes and liquidity both in the primary and secondary market. It is larger banks that have signed up to become Primary Dealers.

SSMA is of the strong opinion that Primary Dealers should be exempted from Article 1 of RTS 8. The main reason for that is that Article 1 focuses on exchange trading in electronic orderbooks. This is totally different from the request for quote market that Primary Dealers operates in.

SSMA does not see any risk that an exemption will create a regulatory loophole since the Primary Dealer activity is so different from what RTS 8 aims at regulating.

Q46: Do you think that venues which introduced asymmetric speedbumps provide enough information regarding the mechanism used? If not, what additional information would be useful to disclose to market participants?

SSMA does not want speedbumps since it only adds complexity to the market infrastructure. If needed it should be up for the market to decide how to implement.



Q47: Reflecting on those mechanisms which allow liquidity providers to provide quotes that can be filled only against retail order flow, do you think that such mechanisms are beneficial in terms of market quality? Is there any specific aspect that you think should be further taken into account, also considering the type of instruments traded? Please specify the venue of reference and the type of arrangement discussed.

This is not a practice that SSMA members have much experience of and therefore has no strong view. A reflection however is that such a mechanism adds complexity to the market and could potentially create problems since it is a type of payment for order flow. Exchanges charge market makers a higher trading fee for trades executed at such quotes only eligible for retail investors. It could therefore harm the market quality due to fragmentation of trading.

Q48: Do you think that venues which introduce asymmetric speedbumps should set tighter market making requirements? Please explain why and how tight those new requirements should be.

SSMA thinks it should be for the market to decide and it should not be regulated. We see no real reason why speedbumps should have an impact on market making requirements in any way.

Q49: Do you agree on the conclusion that speedbumps might not be a well-suited arrangement for equity markets? If yes, do you think that such arrangements for equities should be prohibited in Level 1? Please explain.

SSMA believes speedbumps are complex and usually creates problems for the market, but SSMA has no strong opinion if it should be prohibited in Level 1 or not. We do however not want any changes to the current rules that will potentially only drive new IT investments.

Q50: Do you think that the introduction and functioning of speedbumps should be further regulated? If yes, which specific requirements would you like to be included in EU legislation?

No, SSMA does not support this.

Q51: Is there any specific issue you would like to highlight about speedbumps?

SSMA has no specific issue to highlight.

Q52: What are your views on the relative timing of private fill confirmations and public trade messages? If you are a trading venue, please provide in your answer an explanation of the model you have in place.

SSMA has no strong view, but we do not want any new services developed in this area. It should not open up for a new revenue stream to exchanges.



Q53: Do you consider information on the sequencing of these two feeds at trading venues to be easily available? If you are a trading venue, please provide a link to where this information can be found publicly.

SSMA believes they are quite easily available, but it is very technically demanding to synchronize the two different feeds. There are usually two different techniques used – multicast and unicast. To guarantee that these two are synchronized and sequenced in the same way is extremely difficult to achieve.

Q54: Do you think there should be any legislative amendments or policy measures in respect of these feed dynamics?

SSMA does not want any amendments to the regulation in this respect because of the technical difficulties – see Q53.