

## Chapter 5A

# Organised trading facilities (OTFs)

## 5A.3 Specific requirements for OTFs

### Executing orders

5A.3.1

**R**

A *firm* must:

- (1) execute orders on a discretionary basis in accordance with ■ MAR 5A.3.2R;
- (2) unless permitted in ■ MAR 5A.3.5R, not execute any *client* orders against its proprietary capital or the proprietary capital of any entity that is part of the same group or legal person as the *firm*; and
- (3) ensure that the operation of an *OTF* and of a *systematic internaliser* does not take place within the same legal entity, and that the *OTF* does not connect with another *OTF* or with a *systematic internaliser* in a way which enables orders in the different *OTFs* or *systematic internaliser* to interact.

[Note: article 20(1) to (4) and 20(6) of *MiFID*]

5A.3.2

**R**

The discretion which the *firm* must exercise in executing a *client* order must be either, or both, of the following:

- (1) the first discretion is whether to place or retract an order on the *OTF*;
- (2) the second discretion is whether to match a specific *client* order with other orders available on the *OTF* at a given time, provided the exercise of such discretion is in compliance with specific instructions received from the *client* and in accordance with the *firm's* obligations under ■ COBS 11.2A (Best execution – *MiFID* provisions).

[Note: article 20(6) of *MiFID*]

5A.3.3

**G**

Where the *OTF* crosses *client* orders, the *firm* may decide if, when and how much of two or more orders it wants to match. In addition, subject to the requirements of this section, the *firm* may facilitate negotiation between *clients* so as to bring together two or more potentially comparable trading interests in a transaction.

[Note: article 20(6) of *MiFID*]

**5A.3.4** **G** ■ MAR 5A.3 does not prevent a *firm* from engaging another *investment firm* to carry out market making on an independent basis on an *OTF* operated by it provided the *investment firm* does not have *close links* with the *firm*.

[Note: article 20(5) of *MiFID*]

### Proprietary trading

**5A.3.5** **R** A *firm* must not engage in:

- (1) *matched principal trading* on an *OTF* operated by it except in bonds, *structured finance products*, *emission allowances* and derivatives which have not been declared subject to the clearing obligation in accordance with article 5 of *EMIR*, and where the *client* has consented; or
- (2) *dealing on own account* on an *OTF* operated by it, excluding *matched principal trading*, except in *sovereign debt instruments* for which there is not a liquid market.

[Note: article 20(2) and (3) of *MiFID*]

**5A.3.6** **R** For the purposes of ■ MAR 5A.3.5R(2), a “liquid market” means a market for a *financial instrument* or a class of *financial instruments*, where there are ready and willing buyers and sellers on a continuous basis, assessed in accordance with the following criteria, taking into consideration the specific market structures of the particular *financial instrument* or of the particular class of *financial instruments*:

- (1) the average frequency and size of transactions over a range of market conditions, having regard to the nature and life cycle of products within the class of *financial instrument*;
- (2) the number and type of market participants, including the ratio of market participants to traded instruments in a particular product; and
- (3) the average size of spreads, where available.

[Note: article 4(1)(25) of *MiFID*]

**5A.3.7** **R** A *firm* engaging in *matched principal trading* in accordance with ■ MAR 5A.3.5R(1) must establish arrangements to ensure compliance with the definition of *matched principal trading*.

[Note: article 20(1) and (7) of *MiFID*]

**5A.3.8** **G** *Matched principal trading* does not exclude the possibility of settlement risk, and, accordingly, *firms* should take appropriate steps to minimise this risk.

### Other MiFID obligations

**5A.3.9** **R** A *firm* must comply with the obligations under the following provisions of *MiFID*, in the course of operating an *OTF*:

- (1) articles 16(2), 16(3) (first subparagraph), 16(4), 16(5), 16(6), 16(7), 16(8), 16(9), and 16(10);
- (2) articles 24(1), (3), (4), (5), (9), (10) and (11);
- (3) articles 25(3) (except to the extent that article 25(4) applies), 25(5), and 25(6) (to the extent applicable);
- (4) article 27; and
- (5) article 28.

[**Note:** article 20(8) of *MiFID*. The above *MiFID* provisions are transposed as follows in the *FCA Handbook*:

- (1) ■ SYSC 6.1.1, ■ SYSC 10.1.7, ■ SYSC 4.1.6, ■ SYSC 8.1.1, ■ SYSC 4.1.1(1), ■ SYSC 4.1.1(3), ■ SYSC 9.1.1A, ■ SYSC 10A, ■ CASS 6.2.1 and ■ CASS 7.12.1;
- (2) ■ COBS 2.1.1, ■ COBS 4.2.1, ■ COBS 4.3.1, ■ COBS 2.2A.2, ■ COBS 2.2A.3, ■ COBS 2.3A.5, ■ SYSC 19F.1.2 and ■ COBS 6.1ZA.16;
- (3) ■ COBS 10A.2.1, ■ COBS 10A.2.2, ■ COBS 10A.3.1, ■ COBS 10A.3.2, ■ COBS 10A.4.1, ■ COBS 8A, ■ COBS 16A.2.1 and ■ COBS 9A.3.2;
- (4) ■ COBS 11.2A; and
- (5) ■ COBS 11.3.]

### Reporting to the FCA

#### 5A.3.10

**R**

A *firm* must:

- (1) in respect of an *OTF* operated by it, or such a facility it proposes to operate, provide to the *FCA* a detailed explanation of:
  - (a) why the *OTF* does not correspond to, and cannot operate as, an *MTF*, a *regulated market* or a *systematic internaliser*;
  - (b) how discretion will be exercised in executing *client* orders; and
  - (c) its use of *matched principal trading*; and
- (2) supply the information in (1) to the *FCA* in writing, by electronic mail to an address for the usual supervisory contact of the *firm* at the *FCA*, and obtain an electronic confirmation of receipt.

[**Note:** article 20(7) of *MiFID*]

#### 5A.3.11

**G**

A *person operating an organised trading facility* cannot also provide the service of a *systematic internaliser*, irrespective of whether the *systematic internaliser* trades different *financial instruments* or types of *financial instruments* to those traded on the *OTF*.