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Why Spoofing Should Not Be Deregulated and Permitted in Financial Markets: Ethical Concerns

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The article examines spoofing, which is one of the most morally controversial practices in financial markets. In doing so, it undermines the arguments of market practitioners and theoreticians who call for its deregulation and permission in financial trading. In particular, it critically assesses three ethical arguments: the "argument from the interpretive nature of deception," the "argument from the defensive function of spoofing" and the "argument from the fairer distribution of market power." All these arguments have significant shortcomings and call into question the legitimacy of proposals to deregulate spoofing and as such are unjustified.

Keywords: ethical consideration of spoofing, financial markets, deception, financial trading

Introduction

Spoofing, just like insider trading and front running, is one of the most controversial financial practices from a moral point of view. It is the practice of placing large orders on a financial exchange market without the intention of having

these orders fulfilled, in particular by cancelling them prior to execution.[1] The reason for such placing and cancelling is to create the false impression that there is a large demand (supply) for a financial instrument at that price, hopefully causing others to be more willing to buy (sell) at that or a higher (lower) price.[2] Importantly, the spoofer places large spoof orders usually below the current bid or above the current offer and then quickly cancels them before execution.[3] Moreover, she places not only large spoof orders, but also small ones that are intended to be executed (on this side of the market that seems to be weaker through her spoofing activity).[4] Thus, it can be said that the essence of spoof orders is their intention of not being fulfilled and their size (volume of securities) at least twice the previous day's average order size.[5] Moreover, their nature is an attempt to induce in other market participants a belief that there is someone who wants to buy or sell a large quantity of assets and that their price will fall or increase, which ultimately is a form of deception, especially the kind known as pretending.[6]

As a form of deceptive practice spoofing is now widely prohibited and banned in financial markets.[7] However, despite such a prohibition and ban there are calls for its deregulation and permission in financial trading. Importantly,

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[1] Kasim Khorasanee, "Spoof, Bluff, Go For It: A Defence of Spoofing," *Journal of Business Ethics* 189, no. 1 (2024): 203, https://doi.org/10.1007/s10551-022-05296-7.

[2] Gil Hersch, "You Can Bluff But You Should Not Spoof," *Business and Professional Ethics Journal* 39, no. 2 (2020): 209, https://doi.org/10.5840/bpej20207695.

[3] Victoria Dalko et al., "Spoofing: Effective Market Power Building Through Perception Alignment," *Studies in Economics and Finance* 37, no. 3 (2020): 502–503, https://doi.org/10.1108/SEF-09-2019-0346. Interestingly, Donald MacKenzie points to the existence of a form of spoofing in which spoof orders are placed at the best bid or offer price. According to him, this form of spoofing is dangerous to the intended spoofer, but also more effective, because algorithms that make inferences based on counts of the contents of the order book typically weigh these orders more heavily than orders further away (see Donald MacKenzie, "How Algorithms Interact: Goffman's 'Interaction Order' In Automated Trading," *Theory, Culture & Society* 36, no. 2 (2019): 49–50, https://doi.org/10.1177/0263276419829541).

[4] Khorasanee, "Spoof, Bluff, Go For It," 203.

[5] Eun J. Lee et al., "Microstructure-Based Manipulation: Strategic Behavior and Performance of Spoofing Traders," *Journal of Financial Markets* 16, no. 2 (2013): 232, https://doi.org/10.1016/j.finmar.2012.05.004.

[6] Spoofing activity pretends the action of buying when the spoofer wants to sell financial instruments or selling when she intends to buy them.

[7] Khorasanee, "Spoof, Bluff, Go For It," 201.

these appeals are raised both by practitioners who work in financial exchanges and by academics who study them theoretically.[8] Both sides provide several different arguments, supporting their calls for deregulation and permission of spoofing in financial exchanges, among which there are ethical arguments that show that spoofing is not something morally wrong, that it can be seen as a fair and morally acceptable practice.[9] Some of these ethical arguments have already been the object of detailed and rather convincing criticism.[10] However, there are still at least three ethical arguments of proponents of legalization of spoofing in financial markets that require further criticism. These arguments can be labeled as the "argument from the interpretive nature of deception," the "argument from the defensive function of spoofing" and the "argument from the fairer distribution of market power."

This article undermines all these ethical arguments of the apologists of spoofing in financial exchanges. In detail, it shows that the interpretive nature of deception in financial trading does not change the deceptive character of spoofing and, consequently, its moral questionability. Moreover, it argues that spoofing cannot be seen as a form of defensive deception that is "morally acceptable because of [its] defensive function."[11] Finally, it shows that even if legalization of spoofing would lead to a fairer distribution of power between certain market actors, it would come at the expense of the third party of the financial exchange that

[8] See John D. Arnold, "Spoofers Keep Markets Honest," *Bloomberg Opinion* 23, https://www.bloomberg.com/view/articles/2015-01-23/high-frequency-trading-spoofers-and-front-running (accessed 22.12.2025); Ricky Cooper et al., "The Mysterious Ethics of High-Frequency Trading," *Business Ethics Quarterly* 26, no. 1 (2016), https://doi.org/10.1017/beq.2015.41; Khorasanee, "Spoof, Bluff, Go For It."

[9] The proponents of legalization of spoofing provide also arguments that refer to the practical work of financial markets arguing that the mentioned legalization would improve their functioning, i.e., their informational efficiency (see Cooper et al., "The Mysterious Ethics") and it would make financial trading simpler (see Arnold, "Spoofers Keep Markets Honest"). This article does not refer to these "practical" arguments.

[10] See Gil Hersch's criticism of the argument from the analogy between financial trading and poker game and, consequently, between spoofing and bluffing and the argument from consent, i.e., that market participants tacitly or voluntarily consent on spoofing (Hersch, "You Can Bluff").

[11] Alan Strudler, "Deception Unraveled," *The Journal of Philosophy* 102, no. 9 (2005): 462, https://www.jstor.org/stable/3655633 (accessed 22.12.2025).

is not involved in any morally contestable practices in financial markets, i.e., at the expense of individual fundamental investors. All these objections make it rather clear that such a deceptive practice as spoofing should not be deregulated and permitted in financial markets, but still banned and constrained.

Challenging the Argument from the Interpretive Nature of Deception

The proponents of spoofing in financial exchanges indicate that in financial trading in general and in algorithmic trading in particular, all deception is interpretive, i.e., it "occurs when a receiver arrives at a false conclusion with inadequate evidence or inadequate certainty about the sender's strategy. For a trading algorithm to be deceived it must interpret messages and arrive at a false conclusion about a sender's strategy."[12] This seems to suggest that spoofing in itself is not deceptive. This is because spoof orders do not differ substantially from other orders since they are not fake quotes but real ones that can be accepted.[13] In other words, they are only data and any meaning concerning them arises in the mind of the receiver.[14] Therefore, the potential for deception "only arises because other participants are used to forming assumptions and building trading models based on inferring the intentions which sit behind offers."[15] To put it in a slightly different way, it is this mind or trading strategy of traders and algorithms that lead them to a false conclusion (about possible increases or falls after the occurrence of a large spoof order) and consequently to being deceived. Importantly, the false interpretation can arise with or without the intention of the sender of a large order.[16] Moreover, such a false conclusion that makes traders or algorithms to be deceived is not a naïve mistake or accident. It is rather a consequence of their trading strategy that is based on the anticipation of price movements from an order book.[17] Without such a strategy there would be no deception. Thus, the process of how

[12] Cooper et al., "The Mysterious Ethics," 9.
[13] Khorasanee, "Spoof, Bluff, Go For It," 208.
[14] Cooper et al., "The Mysterious Ethics," 9.
[15] Khorasanee, "Spoof, Bluff, Go For It," 208.
[16] Cooper et al., "The Mysterious Ethics," 9.
[17] Ibid., 10.

deception occurs in financial trading shows that the deceptive character of spoofing and consequently its moral questionability results not so much from the activity and intentions of the spoofer and her spoof orders alone as from the specific working of traders' minds or algorithmic logic of high-frequency trading.[18]

Referring critically to this argument, one can emphasize that the fact that spoof orders themselves are not false or fake, but real and true does not change the situation that the activity of a spoofer remains deceptive. This is because, as it is indicated by some researchers, untruthful statements are not necessary for deception.[19] In other words, it is possible to deceive by making true statements or, referring to the case of spoofing, by submitting real and true orders, that intentionally imply a falsehood. Spoofing is, then, an example of such a deception that is realized by means of true orders that are made with an intention to deceive. Moreover, although spoof orders are not statements, thus they cannot themselves be false, nonetheless they can be seen as signs, signals or symbols. As such, they can be also deceptive because there is no statement condition for deception, because "[i]t is possible to deceive without making any statement whatever"[20] i.e., by using signs, signals or symbols.[21] Finally, just as a false conclusion of market actors seeing a large spoof order is not a mistake or accident, so the same can be said about spoof orders and the activity of the spoofer. Namely, these orders also are not sent to an order book mistakenly or inadvertently either, but in a way that is intended to maximize the chance of making a false interpretation. Hence, this and

[18] Ibid., 8–10.

[19] See Warren Shibles, "A Revision of the Definition of Lying As an Untruth Told With Intent To Deceive," *Argumentation* 2 (1988): 101, https://doi.org/10.1007/BF00179144; Stuart P. Green, "Lying, Misleading, and Falsely Denying: How Moral Concepts Inform the Law of Perjury, Fraud, and False Statements," *Hastings Law Journal*, 53 (2001): 163, https://repository.uclawsf.edu/hastings_law_journal/vol53/iss1/2 (accessed 22.12.2025); Don Fallis, "What Is Lying?" *The Journal of Philosophy* 106, 1 (2009): 38–39, https://doi.org/10.5840/jphil200910612; James E. Mahon, "The Definition of Lying and Deception," in *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta, *2016,* https://plato.stanford.edu/archives/win2016/entries/lying-definition/ (accessed 22.12.2025).

[20] Immanuel Kant, *Lectures on Ethics*, trans. Louis Infield (Methuen & Co. LTD, 1930), 226; see also Thomas L. Carson, *Lying and Deception: Theory and Practice* (Oxford University Press, 2010), 55.

[21] Roderick M. Chisholm and Thomas D. Feehan, "The Intent To Deceive," *The Journal of Philosophy* 74, no. 3 (1977): 149, https://doi.org/10.2307/2025605.

no other volume of a spoof order on this particular side of the market and often at this concrete moment. Thus, the fact that deception in financial trading is interpretive does not make spoofing any less deceptive and, consequently, any less morally questionable.

The idea that the deceptive character of spoofing results first and foremost from the use of the anticipatory trading strategy by some traders is very attractive from the perspective of the supporters of the release of spoofing in financial exchanges, because it suggests that spoofing after its legalization would harm only these market participants who use such a strategy, but not those ones who use strategies that are not based on the prediction of price movements from an order book. In other words, it would be problematic and disadvantaged only for speculators such as high-frequency traders, but not for non-speculative investors such as, for instance, risk hedgers. As it will be shown in the fourth part of this text it is not the case, because spoofing can also be harmful and disadvantaged for non-speculative market actors such as individual fundamental investors.

Questioning the Argument from the Defensive Function of Spoofing

Contrary to the first argument, in which the proponents of legalization of spoofing suggest that the deceptive character of spoofing results first and foremost from the interpretive nature of deception in financial trading, in the second argument, they emphasize that spoofing can be seen as a form of defensive deception that is "morally acceptable because of [its] defensive function."[22] In detail, they indicate that in financial exchanges one of the key elements of market practice is to carefully manage the information one discloses regarding one's true financial plans.[23] This is because in these exchanges the ability to read intentions behind actions is key to competitive advantage.[24] Therefore, the actors involved in the financial exchange do not owe one another any duty to reliably signal or disclose their investment preferences or intentions.[25] This means that they are entitled to

[22] Strudler, "Deception Unraveled," 462.
[23] Khorasanee, "Spoof, Bluff, Go For It," 204.
[24] Ibid., 207.
[25] Ibid., 206.

guard their internal market preferences which, in turn, is logically linked to confusing counterparties.[26] However, in the realm of contemporary financial markets there are market participants who are faced with the difficulty of protection their private investment preferences, on the one hand, and the participants who can easily read the market intentions of many market actors. The former are, for example, risk hedgers who place large orders to hedge economic risk and "whose activities provide the raison d'être for financial exchanges, differentiating them from simple forums for gambling."[27] The latter, in turn, are high-frequency traders, i.e., speculators who, thanks to the predictive ability of their algorithms and the speed with which they can react to new information, can easily profit by gleaning the intentions of risk hedgers (among others) and jumping in front of their orders, thereby causing them to buy and sell at a less favorable price.[28] According to the proponents of permissibility of spoofing, its legalization would help risk hedgers to defend themselves against the harmful activity of high-frequency traders (the necessity of buying or selling financial instruments at a less favorable price). This would be possible because the eventuality of the use of large spoof orders would make it harder for the latter to "anticipate market moves at the second-by-second micro-level based purely on changes in order flow."[29] In other words, legitimization of spoofing would make risk hedgers orders much less indicative and readable, helping them avoid being such an easy prey for high-frequency traders. Thus, in the spoofing-enabled market spoof acts would play a defensive function, becoming in this way a form of defensive deception that is "morally acceptable because of [its] defensive function."[30]

The main problem with this argument is that it contradicts one of the main principles that justifies the use of deception in the context of business activities, i.e., Carson's principle of self-defense. According to this principle, "[a]cts which are ordinary prima facie wrong are not prima facie wrong (or at least less prima facie wrong) if they are necessary in order to protect oneself against harm caused

[26] Ibid., 207. One of the most common ways of such confusing that is legal is the so called "iceberging", i.e., "breaking up a large order into smaller orders that are entered into the market over some period of time" (see Hersch, "You Can Bluff," 213).

[27] Khorasanee, "Spoof, Bluff, Go For It," 201.

[28] Arnold, "Spoofers Keep Markets Honest."

[29] Khorasanee, "Spoof, Bluff, Go For It," 212.

[30] Strudler, "Deception Unraveled," 462.

by other people`s offensive violations of prima facie moral rules."[31] Taking Carson's principle to the instance of spoofing, it would mean that it is not wrong when it is necessary to protect oneself (e.g. risk hedger) against harm (the necessity of buying or selling financial instruments at a less favorable price) caused by other market participants` offensive violations of prima facie moral rules (e.g. anticipatory trading of high-frequency algorithmic traders).[32] Is spoofing indeed necessary in this regard? The answer is no, because there exist other ways of protection against the above mentioned harm that are not so much morally dubious as spoofing, i.e., other ways to obfuscate one's investment preferences and make it harder for high-frequency traders to infer signals that come from changes in order flow and in this way to profit at the expense of risk hedgers. Specifically, it is possible to randomize the process of order sending and execution. Such a randomization, which is suggested to be the best way of counteracting the questionable activity of high-frequency traders,[33] means not only splitting a large order (parent order) into a set of smaller ones (child orders), but first and foremost dividing it into orders that have different trade sizes and that are submitted or executed in different time intervals. The latter actions are necessary because any regularity in order flow makes the parent quote, split into child orders, more detectable for pattern recognition algorithms of high-frequency traders.[34] Thus, it can be said that the hedger has a possibility of defending herself from the potential harm caused by high-frequency traders and in the way that is different from spoofing. If she does not do this, her act of spoofing is undoubtedly morally unjustifiable. It is so in the same way in which undoubtedly morally unjustifiable are acts of persons who being subjected to a serious threat and having a way of avoiding the threat behave like they have no choice, i.e., commit the acts of violence against the source of the

[31] Thomas L. Carson, "Second Thoughts About Bluffing," *Business Ethics Quarterly* 3, no. 4 (1993): 326, https://doi.org/10.2307/3857282.

[32] See Khorasanee, "Spoof, Bluff, Go For It."

[33] Liyan Yang and Haoxiang Zhu, "Back-Running: Seeking and Hiding Fundamental Information In Order Flows," *The Review of Financial Studies* 33, no. 4 (2020): 1484–1533, https://doi.org/10.1093/rfs/hhz070.

[34] Mehmet Sağlam, "Order Anticipation Around Predictable Trades," *Financial Management* 49, no. 1 (2020): 33–67, https://doi.org/10.1111/fima.12255.

threat.[35] Put differently, having alternatives of not using spoofing to conceal financial preferences or intentions, the risk hedger, by using it anyway, contributes this way not so much to her defense as, first and foremost, to the harm of other market participants.

The criticism of the "argument from the defensive function of spoofing" seems to be even more reasonable given that it is difficult to clearly consider the anticipatory trading of high-frequency traders, against which spoofing is said to protect, "offensive violations of prima facie moral rules."[36] In other words, it is difficult to say what is indeed wrong with this trading that excuses the use of spoofing against it. Anticipatory trading is one of the forms of trading strategies, beside confirmation trading that takes place when a trader trades in the direction that is consistent with her expectation about future order flow.[37] In the context of high-frequency trading an anticipatory trader is a high-frequency trader who predicts when a non-high-frequency trader is about to buy (sell) a security and takes the same position prior to the non-high-frequency trader. The high-frequency trader then buys (sells) at a lower (higher) price than the non-high-frequency trader and can turn around and sell (buy) the security to (from) the non-high-frequency trader at a small profit.[38] What is common to these definitions is that both underlie the fact that anticipatory trading, being used by high-frequency traders, requires interpretive processes, that it is a form of prediction on the basis of data that do not speak for itself, but need an interpretation. This causes that predictions of anticipatory traders are still only predictions even if they are done with high speed and with the help of algorithms. Speed and algorithmization in this respect do not change the essence of anticipatory trading, i.e., that it is based

[35] Joseph Heath, "'But Everyone Else Is Doing It': Competition and Self-Regulation," *Journal of Social Philosophy* 49, no. 4 (2018): 528, https://doi.org/10.1111/josp.12259.

[36] Carson, "Second Thoughts About Bluffing," 326.

[37] Nicholas Hirschey, "Do High-Frequency Traders Anticipate Buying and Selling Pressure?" *Management Science* 67, no. 6 (2021): 3321, https://doi.org/10.1287/mnsc.2020.3608.

[38] Jonathan Brogaard, "High Frequency Trading and Its Impact On Market Quality," *Working Paper* 2010, no. 66: 1, *Northwestern University Kellogg School of Management*, https://conference.nber.org/confer/2010/MMf10/Brogaard.pdf (accessed 22.12.2025).

on the interpretation, anticipation and prediction and is prone to errors. Moreover, it is based on public, not private information,[39] in this sense that potentially every market actor has access to the information seconds before it is seen in the order book.[40] As such, anticipatory trading performed by high-frequency traders is neither the form of insider trading nor the instance of front running.[41] Thus, it does not seem to violate moral rules, because high-frequency traders do not steal or misappropriate financial information, but only buy it with the understanding that they can trade on this information.[42] To this should also be added that they do not deceive other market participants and as long as they do not do so their trading activity cannot be treated as something to which the principle of self-defense can be applied.[43]

Thus, considering the possibility of defending in a different manner than only by spoofing by the non-speculative market actors and the difficulty with a

[39] James J. Angel and Douglas McCabe, "Fairness In Financial Markets: The Case of High Frequency Trading," *Journal of Business Ethics* 112 (2013): 589, https://doi.org/10.1007/s10551-012-1559-0.

[40] Heleen Boonen, "High Frequency Trading, Electronic Frontrunning and Structural Insider Trading Under the EU Market A." *The New York University Journal of Law and Business Online*, (2017), https://www.nyujlb.org/single-post/2017/11/27/high-frequency-trading-electronic-frontrunning-and-structural-insider-trading-under-the-e (accessed 22.12.2025). For the opposite view see, for example, Maureen O'Hara, "High Frequency Market Microstructure," *Journal of Financial Economics* 116, no. 2 (2015): 263, https://doi.org/ 10.1016/ j.jfineco. 2015. 01.003.

[41] Carl D. Mildenberger, "What (If Anything) Is Wrong With High-Frequency Trading?" *Journal of Business Ethics* 186 (2023): 370–374, https://doi.org/10.1007/s10551-022-05145-7; Angel and McCabe, "Fairness In Financial Markets," 589.

[42] James J. Angel and Douglas McCabe, "Insider Trading 2.0? The Ethics of Information Sales," *Journal of Business Ethics* 147 (2018): 747–760, https://doi.org/10.1007/s10551-016-3391-4.

[43] High-frequency trading is not as innocent as it is presented in the above comment. As it is shown by Angel and McCabe high-frequency traders use different trading strategies. Some of them are fair from the moral point of view, while others are evidently morally evil (e.g. front running, quote stuffing, wash sales and order triggering). However, the latter do not result from the very nature of high-frequency trading, but from the decisions of people, using this technology in financial trading. In other words, high-frequency trading is not inherently evil, but it can become such when financial agents apply it to manipulate in financial markets (see Angel and McCabe, "Fairness In Financial Markets.")

strict assessment of high-frequency trading as an "offensive violation of prima facie moral rules", it is rather clear that spoofing activity cannot be seen as a form of defensive deception and in this way as something morally justified. On the contrary, it should be viewed as a form of offensive deception, i.e., deception that occurs when one deceives the other who is not deceiving one or violating any other moral rules in her treatment of one.[44]

Undermining the Argument from the Fairer Distribution of Market Power

The proponents of deregulation and permission of spoofing in financial trading suggest that contemporary spoofing-restricted financial markets are unfair regarding the power among market participants.[45] They are such because in these markets some of their actors (high-frequency traders) can profit on other market participants (e.g. risk hedgers) and in an almost easy and risk-free way. Meanwhile, these other market actors, despite the best efforts, cannot overcome the former.[46] Thus, according to the apologists of spoofing in financial trading some financial agents are better off than others. Importantly, these are speculators whose economic activities make financial trading to be a form of gambling, whereas market participants who provide the normative rationale for financial markets as important social institutions are worse off. The abolition of anti-spoofing restrictions would help eliminate or decrease this unfairness by making it harder for speculators to profit on non-speculative market actors.

This argument gives rise to one important objection. Namely, if legalization of spoofing in financial exchanges is to be morally justified its results should not be disadvantaged for other market participants than only for high-frequency traders who are better off at the cost of other financial agents. Put differently, deregulation and permission of spoofing should not come at the price of these market actors who are not in such an advantaged position as high-frequency traders. The proponents of the abolition of anti-spoofing regulation suggest that the only party that is touched by the spoofer's deception are high-frequency traders.[47] This does

[44] Carson, "Second Thoughts About Bluffing," 326.

[45] See Khorasanee, "Spoof, Bluff, Go For It."

[46] Ibid., 209, 211–213.

[47] Arnold, "Spoofers Keep Markets Honest."

not seem to be the case, in particular in the context of stock markets. In such markets legalization of spoofing could indeed improve the situation of the large non-speculative market agents (e.g. pension funds) who like risk hedgers in futures markets suffer from the anticipatory trading strategy of high-frequency traders. However, this improvement could come at the cost of other non-speculative market participants, i.e., individual fundamental investors who make also financial markets something more than only forums for gambling. To see clearly such a possibility imagine that there is an individual fundamental investor who, after the closing of trading session on one day and using dividend yield indicator, selected three listed companies that were going to pay dividends in the near future. Each of these companies offered different dividend yields. Namely, company A offered 5%, company B 4,85% and company C 4,75%. On the next trading day she decided to buy stocks of company A because of the highest dividend yield it offered. Unfortunately, at the opening of trading session on that day, the price of stocks of company A increased by 5%. As a result its dividend yield decreased, making shares of company B more financially attractive (they offered now higher dividend yield). Consequently, the individual fundamental investor bought stocks of company B. However, the increase in the stock price of company A turned out to be the effect of the succeeded spoofer's activity and at the end of the trading session it disappeared, i.e. the price of shares of company A returned to the level before the spoofer's actions (which made them again the most financially attractive). Thus, by buying stocks of company B the mentioned investor suffered a loss, i.e., a lower return on investment in these stocks. Importantly, such a loss would never occur if spoofing had not been used. What is more, the reason of this loss was not her bad financial decisions, but the deceptive activities of certain market actors fooling effectively other financial agents.[48]

This thought experiment shows that the postulated deregulation and permission of spoofing in financial trading is morally questionable. This is because the

[48] The possibility of a scenario presented in the thought experiment seems quite real in the light of a simulation model that shows that spoofing is harmful for fundamental investors at least during spoofing period (see Hao H. Li and Steve Y. Yang, "Impact of False Information From Spoofing Strategies: An ABM Model of Market Dynamics," *IEEE Symposium on Computational Intelligence for Financial Engineering and Economics (CIFEr)*, (2022): 1–10, https://doi.org/10.1109/CIFEr52523.2022.9776070).

possibility of spoofing yields with itself the danger of generating negative consequences for "innocent" market participants. Thus, the weakness of the analyzed argument for the abolition of anti-spoofing restrictions in financial exchanges is not that it emphasizes the need for elimination or reduction of the unfair distribution of market power (between high-frequency traders and risk hedgers or pension funds), but rather it is the proposed way in which such a need should be realized, i.e., by making spoofing to be a legally permissible financial practice. Given that such a practice can play not only a positive function as a tool for the defense against the predatory activities of certain speculators (high-frequency traders), but also a negative one as a source of harm for some non-speculative agents, the call for its legalization does not seem to be a good idea.

Conclusion

The proponents of deregulation and permission of spoofing in financial trading try to show that it is not something morally wrong, that it can be seen as a fair and morally acceptable practice. In doing so, they emphasize the interpretive nature of deception in financial markets and suggest that the deceptive character of spoofing and, consequently, its moral questionability results not so much from the activity and intentions of the spoofer and her spoof orders alone as rather from the specific working of traders' minds or algorithmic logic of high-frequency trading. Moreover, to this end, they argue that spoofing appears to be a form of defensive deception that due to its defensive function is morally permissible. Finally, trying to show that spoofing can be seen as a fair and morally good practice, they indicate that legalization of spoofing would contribute to the fairer distribution of market power in the financial exchanges. In opposition to these arguments this paper holds that spoofing cannot be treated as something morally good because it is a form of deception and, in particular, a form of offensive deception. Moreover, its legalization cannot contribute to the fairer distribution of market power in financial exchanges. This is because, even if there is a need for such a distribution, legalization of spoofing seems not to be a good way to do so because it opens a door for making some "innocent" financial agent to be worse off. Thus, such a practice as spoofing should still be banned and prohibited in financial markets.

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Streszczenie

Dlaczego spoofing nie powinien zostać zderegulowany i dopuszczony na rynkach finansowych. Kwestie etyczne

W artykule analizowany jest spoofing, jedną z najbardziej kontrowersyjnych moralnie praktyk na rynkach finansowych. Podważane są argumenty teoretyków i praktyków, którzy wzywają do deregulacji spoofingu i dopuszczenia go w obrocie finansowym. W szczególności, krytycznej ocenie niniejszy tekst poddaje trzy argumenty etyczne: „argument z interpretacyj-

nego charakteru oszustwa," „argument z defensywnej funkcji spoofingu," oraz „argument z bardziej sprawiedliwego podziału siły rynkowej". Wszystkie te argumenty mają istotne braki, które podważają zasadność propozycji deregulacji spoofingu na rynkach finansowych.

Słowa kluczowe: etyczna analiza spoofingu, rynki finansowe, oszustwo, handel finansowy

Zusammenfassung

Warum Spoofing nicht dereguliert und auf den Finanzmärkten zugelassen werden sollte. Ethische Fragen

Der Artikel analysiert Spoofing, eine der moralisch umstrittensten Praktiken auf den Finanzmärkten. Es werden die Argumente von Theoretikern und Praktikern hinterfragt, die eine Deregulierung von Spoofing und dessen Zulassung im Finanzhandel fordern. Insbesondere werden in diesem Text drei ethische Argumente kritisch bewertet: „das Argument der interpretativen Natur des Betrugs", „das Argument der defensiven Funktion des Spoofings" und „das Argument einer gerechteren Verteilung der Marktmacht". Alle diese Argumente weisen erhebliche Mängel auf, die die Rechtmäßigkeit des Vorschlags zur Deregulierung des Spoofings auf den Finanzmärkten in Frage stellen.

Schlüsselwörter: ethische Analyse von Spoofing, Finanzmärkte, Betrug, Finanzhandel

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