

**COMMODITY DERIVATIVES (POSITION LIMITS, POSITION MANAGEMENT
AND PERIMETER) INSTRUMENT 2025**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions in or under:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 137A (The FCA’s general rules);
 - (b) section 137T (General supplementary powers);
 - (c) section 139A (Power of the FCA to give guidance);
 - (d) section 293 (Notification requirements);
 - (e) section 300H (Rules relating to investment exchanges and data reporting service providers); and
 - (f) section 395 (The FCA’s and PRA’s procedures);
 - (2) regulation 11 of the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges, Clearing Houses and Central Securities Depositories) Regulations 2001 (SI 2001/995);
 - (3) regulation 15A and paragraph 7 of Schedule 1 to the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 (SI 2017/701); and
 - (4) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. Annex C and Annex F come into force on 5 February 2025.
- D. Part 1 of Annex A and Parts 2 and 4 of Annex B come into force on 3 March 2025.
- E. Part 2 of Annex A, Parts 1 and 3 of Annex B and Annexes D and E come into force on 6 July 2026.

Interpretation

- F. In this instrument, any reference to any provision of assimilated direct legislation is a reference to it as it forms part of assimilated law.

Amendments to the Handbook

- G. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes in this instrument listed in column (2) below.

(1)	(2)
Glossary of definitions	Annex A
Market Conduct sourcebook (MAR)	Annex B
Decision Procedure and Penalties manual (DEPP)	Annex C
Recognised Investment Exchanges sourcebook (REC)	Annex D

Amendments to material outside the Handbook

- H. The Enforcement Guide (EG) is amended in accordance with Annex E to this instrument.
- I. The Perimeter Guidance manual (PERG) is amended in accordance with Annex F to this instrument.

Notes

- J. In the Annexes to this instrument, the notes (indicated by “**Note:**” or “*Editor’s note:*”) are included for the convenience of readers, but do not form part of the legislative text.

Citation

- K. This instrument may be cited as the Commodity Derivatives (Position Limits, Position Management and Perimeter) Instrument 2025.

By order of the Board
30 January 2025

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Part 1: Comes into force on 3 March 2025

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>accountability thresholds</i>	the additional position management controls a <i>trading venue</i> applies, in accordance with <i>MAR 10.3.3BR</i> , in relation to the <i>critical contracts</i> and <i>related contracts</i> traded on its systems.
<i>additional reporting</i>	the reporting to a <i>trading venue operator</i> additional to that required by <i>MAR 10.4</i> , to which <i>MAR 10.3.3HR</i> applies.
<i>critical contract</i>	a contract, specified in <i>MAR 10.2.1AR</i> , which is a contract in respect of a <i>commodity derivative</i> : <ul style="list-style-type: none"> (a) traded on a <i>trading venue</i> in the <i>UK</i>; (b) to which <i>MAR 10 Annex 2R</i> applies or which is otherwise critical for the purposes of the functioning of the <i>commodity derivatives</i> markets in the <i>UK</i>; and (c) for which a <i>trading venue</i> is required to impose a position limit in accordance with <i>FCA rules</i>.
<i>exemption ceiling</i>	a size limit however imposed on a position limit exemption on a risk-sensitive basis in accordance with <i>MAR 10.2.27R</i> .
<i>hedging exemption</i>	an exemption granted by a <i>trading venue operator</i> to a <i>non-financial entity</i> in respect of its position for the purposes of a position limit relating to a commodity derivatives contract.
<i>related contract</i>	a <i>commodity derivative</i> contract: <ul style="list-style-type: none"> (a) the settlement price of which is linked to the settlement price of a <i>critical contract</i>, including any <i>derivative</i> contract relating to the <i>critical contract</i>; and (b) traded on the same <i>trading venue</i> in the <i>UK</i> as the <i>critical contract</i>.
<i>related OTC contract</i>	an OTC derivative contract:

- (a) which provides a comparable economic exposure to a *critical contract* or *related contract* traded on a *trading venue* a *trading venue operator* (A) operates, including where its underlying has the same *commodity* for delivery at a location specified in the *critical contract*; or
- (b) whose settlement price is linked to or capable of materially influencing the settlement price of a *critical contract* or *related contract* traded on a *trading venue* A operates.

Amend the following as shown.

financial entity (1) (in *MIFIDPRU*) any of the following:

- ~~(1)~~ ...
(a)
- ~~(2)~~ ...
(b)
- ~~(3)~~ ...
(c)
- ~~(4)~~ ...
(d)
- ~~(a)~~ ...
(i)
- ~~(b)~~ ...
(ii)
- ~~(5)~~ ...
(e)
- ~~(a)~~ ...
(i)
- ~~(b)~~ ...
(ii)
- ~~(d)~~ ...
(iii)

(2) (in *MAR 10*) any of the following:

- (a) a *MiFID investment firm* authorised as such by means of a *Part 4A permission* or an *investment firm* authorised in accordance with *MiFID*;

- (b) a CRD credit institution or a credit institution authorised in accordance with CRD;
- (c) an insurance undertaking authorised as such by means of a Part 4A permission or in accordance with Directive 73/239/EEC;
- (d) an assurance undertaking authorised as such by means of a Part 4A permission or in accordance with Directive 2002/83/EC of the European Parliament and of the Council;
- (e) a reinsurance undertaking authorised as such by means of a Part 4A permission or in accordance with Directive 2005/68/EC of the European Parliament and of the Council;
- (f) a UCITS and, where relevant, its management company, authorised as such by means of a Part 4A permission or in accordance with the UCITS Directive;
- (g) an occupational pension scheme or an institution for occupational retirement provision within the meaning of article 6(a) of Directive 2003/41/EC of the European Parliament and of the Council;
- (h) an alternative investment fund managed by an AIFM:
 - (i) authorised as such by means of a Part 4A permission;
 - (ii) authorised or registered in accordance with the AIFMD; or
 - (iii) registered as such pursuant to the AIFMD UK regulation;
- (i) a CCP authorised in accordance with EMIR or recognised as such by means of a recognition order under Part XVIII of the Act;
- (j) a central securities depository authorised in accordance with Regulation (EU) No 909/2014 of the European Parliament and of the Council or recognised as such by means of a recognition order under Part XVIII of the Act; and
- (k) a third-country entity if it would require authorisation under any of the legislation in (a)-(j) if it was based in the United Kingdom and subject to UK law.

*non-financial
entity*

~~(as defined in article 2(1) of MiFID RTS 21)~~ (in MAR 10) a natural or legal person other than: a financial entity.

- (a) ~~a *MiFID investment firm* authorised as such by means of a *Part 4A permission* or an *investment firm* authorised in accordance with *MIFID*;~~
- (b) ~~a credit institution authorised in accordance with Directive 2013/36/EU of the European Parliament and of the Council or a *CRD credit institution*;~~
- (c) ~~an *insurance undertaking* authorised as such by means of a *Part 4A permission* or in accordance with Directive 73/239/EEC;~~
- (d) ~~an assurance undertaking authorised as such by means of a *Part 4A permission* or in accordance with Directive 2002/83/EC of the European Parliament and of the Council;~~
- (e) ~~a *reinsurance undertaking* authorised as such by means of a *Part 4A permission* or in accordance with Directive 2005/68/EC of the European Parliament and of the Council;~~
- (f) ~~a *UCITS* and, where relevant, its *management company*, authorised as such by means of a *Part 4A permission* or in accordance with the *UCITS Directive*;~~
- (g) ~~an institution for occupational retirement provision within the meaning of article 6(a) of Directive 2003/41/EC of the European Parliament and of the Council or an *occupational pension scheme*;~~
- (h) ~~an *alternative investment fund* managed by *AIFMs* authorised or registered in accordance with the *AIFMD* or authorised as such by means of a *Part 4A permission* or registered as such pursuant to the *Alternative Fund Managers Regulations 2013*;~~
- (i) ~~a *CCP* authorised in accordance with Regulation (EU) No 909/2014 of the European Parliament and of the Council or recognised as such by means of a recognition order under Part XVIII of the *Act*;~~
- (j) ~~a central securities depository authorised in accordance with Regulation (EU) No 909/2014 of the European Parliament and of the Council or recognised as such by means of a recognition order under Part XVIII of the *Act*.~~

~~A third country entity is a non financial entity if it would not require authorisation under any of the aforementioned legislation if it was based in the *United Kingdom* and subject to *UK* law. [Note: article 2 of *MiFID RTS 21*]~~

Part 2: Comes into force on 6 July 2026

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>open interest</i>	the number of lots of a <i>commodity derivative</i> that are outstanding on <i>trading venues</i> at any point in time.
<i>other months' contract</i>	a <i>commodity derivative</i> contract which is not a <i>spot month contract</i> .
<i>related overseas commodity derivative contract</i>	a <i>commodity derivative</i> contract traded on an overseas trading venue to which <i>MAR 10.3.8R</i> applies.
<i>spot month contract</i>	the <i>commodity derivative</i> contract in relation to a particular <i>commodity</i> whose maturity is the next to expire in accordance with the rules set by the <i>trading venue</i> .
<i>weekly report</i>	(for the purposes of <i>MAR 10</i>) a weekly report on aggregate positions held by different categories of <i>persons</i> for the different <i>commodity derivatives</i> or <i>emission allowances</i> traded on <i>trading venues</i> as described in <i>MAR 10.4.3R</i> .

Amend the following as shown.

<i>UK trading venue</i>	for the purposes of <i>MAR 9</i> <u>and <i>MAR 10</i></u> (and in accordance with article 2(1)(16A) <i>MiFIR</i>), a <i>UK RIE</i> , a <i>UK MTF</i> or a <i>UK OTF</i> .
<i>working day</i>	(1) (in <i>PRR</i> and <u><i>MAR 9</i> and <i>MAR 10</i></u>) (as defined in section 103 of the <i>Act</i>) any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the <i>United Kingdom</i> .
	...

Annex B

Amendments to the Market Conduct sourcebook (MAR)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Part 1: Comes into force on 6 July 2026

10 Commodity derivative position limits and controls, and position reporting

10.1 Application

Introduction

- 10.1.1 G (1) The purpose of this chapter is to ~~implement articles 57 and 58 of MiFID by setting~~ set out the necessary directions, rules, directions and guidance relating to position limits, position management controls and position reporting in commodity derivatives. The regulatory framework aims to ensure that commodity derivatives markets function well, including by mitigating the risk of market abuse and supporting orderly pricing and settlement conditions. The framework has regard to supporting the liquidity of commodity derivatives markets and enabling these markets to serve commercial users hedging risks relating to their business.
- (2) In particular, this chapter sets out the FCA's requirements and guidance in respect of ~~provisions derived from:~~
- (a) ~~articles 57(1) and 57(6) of MiFID, which require it to establish limits, on the basis of a methodology determined by ESMA, on the size of a net position which a person can hold, together with those held on the person's behalf at an aggregate group level, at all times, in commodity derivatives traded on trading venues and economically equivalent OTC contracts to those commodity derivatives;~~
- ~~[Note: articles 3 and 4 of MiFID RTS 21]~~
- (b) ~~article 57(8) of MiFID, which requires MiFID investment firms and market operators operating a trading venue which trades commodity derivatives to apply position management controls in relation to the trading of commodity derivatives;~~
- (c) ~~article 58(1) of MiFID, which requires MiFID investment firms and market operators operating a trading venue which trades commodity derivatives or emission allowances to provide the competent authority with~~ providing reports in respect of ~~such~~ positions held; and

(d) ~~article 58(2) of MiFID, which requires investment firms trading in commodity derivatives or emission allowances outside a trading venue to provide the competent authority with providing~~ reports containing a complete breakdown of their positions held through such contracts traded on a *trading venue* ~~and economically equivalent OTC contracts~~, as well as of those of their *clients* and the clients of those clients until the end client is reached.

(3) The position limit requirements apply to both *authorised persons* and *unauthorised persons*. As such, the *MiFI Regulations* provide for a separate regulatory framework in relation to such *persons*. This framework is set out in:

...

(b) Schedule 1 to the *MiFI Regulations* ('Administration and enforcement of Part 3, 4 and 5'), which provides for the administration and enforcement of position limits established by the *FCA*, and of the reporting of positions in *commodity derivatives*, and *emission allowances* ~~and economically equivalent OTC contracts~~.

~~This chapter complements and adds to the regulatory framework in the *MiFI Regulations* by establishing the applicable position limits.~~

Scope and territoriality

10.1.2 G (1) The scope of this chapter is as follows: ~~In~~ in respect of position limit requirements in *MAR* 10.2, a *commodity derivative* position limit established by a trading venue operator in accordance with *MAR* 10.2.1AR or the *FCA* in accordance with *MAR* 10.2.2D(1) applies regardless of the location of the *person* at the time of entering into the position and the location of execution.

~~[Note: article 57(14)(a) of MiFID]~~

(2) In respect of position management controls requirements:

(a) the requirements contained or referred to in *MAR* 10.3 apply to UK *persons* operating a *trading venue* which trades *commodity derivatives* ~~in respect of which the *FCA* is the competent authority~~; and

...

...

Structure

- 10.1.3 G This chapter is structured as follows:
- (1) *MAR* 10.1 sets out an introduction to *MAR* 10, a description of the application of *MAR* 10 to different categories of *person*, ~~an explanation of the approach taken to the UK transposition of articles 57 and 58 of *MiFID*, the scope and territoriality of this chapter, and the structure of this chapter.~~
 - (2) *MAR* 10.2 sets out the position limit requirements.
 - (3) *MAR* 10.3 sets out the position management controls requirements.
 - (4) *MAR* 10.4 sets out the position reporting requirements.
 - (5) *MAR* 10.5 sets out other reporting, notification and information requirements.

10.2 Position limit requirements

Establishing, applying and resetting position limits

- 10.2.1 G (1) The following provisions of the *MiFI Regulations* regulate the establishment, application and resetting of position limits:
- (-a) Regulation 15A enables the FCA to require operators of trading venues to establish and apply:
 - (i) position limits in respect of specified commodity derivatives, or commodity derivatives of a specified class, that are traded on a trading venue; and
 - (ii) position management controls in relation to the trading of commodity derivatives;
 - (a) Regulation 16(1) ~~imposes an obligation on~~ enables the FCA to establish position limits in respect of *commodity derivatives* traded on *trading venues* in the *United Kingdom* ~~and economically equivalent OTC contracts;~~
 - (b) ~~Regulation 16(2) imposes an obligation on the FCA to establish position limits on the basis of all positions held by a person in the contract to which the limit relates and those held on the person's behalf at an aggregate group level; [deleted]~~
 - ...
 - (d) ~~Regulation 18 imposes an obligation on the FCA to ensure that each position limit established by it specifies clear quantitative thresholds for the maximum size of a position in a commodity derivative that a person can hold; [deleted]~~

- (e) ~~Regulation 19(1) imposes an obligation on the FCA to establish position limits in accordance with ESMA's methodology, unless an exceptional case exists under Regulation 25 of the MiFI Regulations; [deleted]~~
- (f) ~~Regulation 19(2) imposes an obligation on the FCA to review position limits it has established in the presence of certain factors; [deleted]~~
- (g) ~~Regulation 19(3) imposes an obligation on the FCA to establish a new position limit following its review if it believes that the limit should be reset; [deleted]~~
- ...
- (j) Regulation 23 imposes general obligations on the FCA in respect of the position limits it establishes, so that the limits must be transparent and non-discriminatory, specify how they apply to *persons*, and take account of the nature and composition of market participants and of the use they make of the contracts admitted to trading; and
- (k) ~~Regulation 25(1) prohibits the FCA from establishing position limits which are more restrictive than permitted under MiFID RTS 21 unless in exceptional cases where more restrictive position limits are objectively justified and proportionate; [deleted]~~
- (l) ~~Regulation 25(2) to Regulation 25(5) impose obligations on the FCA where it establishes position limits which are more restrictive than permitted under MiFID RTS 21 in accordance with Regulation 25(1) of the MiFI Regulations. The obligations are that the FCA must publish that position limit on its website, and not apply that position limit for more than six months from the date of publication unless further subsequent six month application periods for that limit are objectively justified and proportionate; and [deleted]~~
- ...
- (2) ~~MiFID RTS 21 provides a methodology for the calculation of position limits on commodity derivatives, and rules for the calculation of the net position held by a person in a commodity derivative. [deleted]~~
- (3) ~~MiFID RTS 21 provides that the FCA can establish different position limits for different times within the spot month period or other months' period of a commodity derivative, and for the spot month period, those position limits shall decrease towards the maturity of the commodity derivative, and shall take into account the position management controls of trading venues. [deleted]~~

~~[Note: article 57 of MiFID]~~

Application of position limits

- 10.2.1A R A trading venue operator must establish a position limit in relation to:
- (1) a commodity derivative listed in MAR 10 Annex 2R and traded on a trading venue it operates;
 - (2) any other contract traded on a trading venue it operates which is critical for the purposes of the functioning of the commodity derivatives markets in the UK, having regard to its characteristics, when notified to do so by the FCA; and
 - (3) any related contract as part of the position limit it imposes for the purposes of (1).
- 10.2.1B G MAR 10.2.1AR(3) extends the position limit requirement to other derivative contracts capable of influencing the pricing or settlement conditions of a critical contract, including options, minis or the disaggregated leg of a spread contract, relating to:
- (1) a critical contract; or
 - (2) a related contract
- 10.2.1C R (1) A trading venue operator must consider whether there are other contracts which:
- (a) offer a comparable economic exposure to that provided by a critical contract and may be used to circumvent the purpose of MAR 10.2.1AR; or
 - (b) influence the pricing or settlement conditions of a critical contract.
- (2) Where a trading venue operator identifies a contract to which (1) applies, it must treat that contract as if it were a related contract for the purposes of MAR 10.
- (3) Where a trading venue operator identifies a contract to which (1) applies, it must promptly notify the FCA of the details of that contract.
- 10.2.1D G Where a position limit does not apply to a commodity derivative contract traded on a trading venue it operates, a trading venue operator is required to maintain appropriate position management controls in relation to those contracts in accordance with MAR 10.3.3R.

- 10.2.1E R When a *trading venue operator* considers that a contract may amount to a *critical contract* and requires closer monitoring by it or the *FCA* for this purpose, it must promptly notify the *FCA* of the details of the contract having had regard to:
- (1) the risk to the settlement method at contract expiry;
 - (2) the size of the *commodity derivative* market compared with the underlying *commodity* and the robustness of the reference price used to settle contracts;
 - (3) the type of underlying and the impact on non-financial end-users;
 - (4) the size of the market, including factors such as *open interest*, traded volumes, and the number and variety of market participants;
 - (5) changes in volatility and liquidity; and
 - (6) its use for circumventing the purpose of *MAR 10.2.1AR*.
- 10.2.1F G When it decides that a contract other than one to which *MAR 10.2.1AR(1)* applies amounts to a *critical contract*, the *FCA* will notify market participants of this using a notice on its website at www.fca.org.uk.
- 10.2.1G G (1) For a period of at least 45 *days* beginning with the date on which the *FCA* publishes the notice in *MAR 10.2.1FG*, market participants can comment on the proposed determination by submitting a response to the *FCA*.
- (2) Having considered market participants' responses, the *FCA* will publish the outcome of its consultation in a notice. Depending on the outcome, the notice will stipulate the date from when the contract becomes a *critical contract*.
- (3) The *FCA* may shorten the procedures in (1) and (2) in exceptional circumstances, in the interests of protecting and enhancing the orderly operation of markets.
- 10.2.1H R A *trading venue operator* must establish and apply a position limit no later than the date from when the contract becomes a *critical contract*.
- 10.2.1I R When setting a position limit in respect of a *critical contract*, a *trading venue operator* must have regard at least to:
- (1) deliverable supply in the underlying *commodity*;
 - (2) aggregate *open interest* and its relationship with deliverable supply;
 - (3) maturity of the *critical contract*;

- (4) volatility in the price of the *commodity derivative* and in the underlying *commodity*;
- (5) liquidity, including:
 - (a) aggregate traded volumes of the *critical contract* and the underlying of the *critical contract*;
 - (b) aggregate traded volumes of the *related contracts, related OTC contracts* and *related overseas commodity derivative contracts*; and
 - (c) the number, size and type of the market participants; and
- (6) the ability of market participants to make or take delivery and the characteristics of the underlying *commodity* market, including transportation, delivery, storage and settlement of the *commodity*.

10.2.1J G For the purposes of discharging its obligation under *MAR 10.2.1IR*, a *trading venue operator* should consider:

- (1) the degree to which deliverable supply in the underlying *commodity* can be restricted or controlled or if the level of deliverable supply is low relative to the amount required for orderly settlement;
- (2) whether the deliverable supply in the underlying *commodity*:
 - (a) is used as the deliverable supply for other commodity derivatives; or
 - (b) is small when compared to the *open interest*;
- (3) for a *spot month contract*, the maturity of the contract;
- (4) for *other months' contracts*, the length of their maturities and the number of separate expiries;
- (5) the extent to which heightened volatility in the *commodity derivative* market and in the underlying *commodity* may impact the ability of market participants to unwind their positions in an orderly way; and
- (6) any position limit applying in a jurisdiction other than the *United Kingdom* to contracts similar to the *critical contract*.

10.2.1K G A *trading venue operator's* assessment of the underlying *commodity* market for the purposes of *MAR 10.2.1IR*(6) should include:

- (1) the storage or settlement of the *commodity* having regard to its physical properties and any geopolitical factors, where relevant;

- (2) The method of transportation and delivery of the *commodity*, including the capacity constraints of any specified delivery points;
- (3) the structure, organisation and operation of the market, including any seasonal fluctuations in physical supply;
- (4) the number, size and type of market participants providing risk management, delivery, storage, settlement and any other key services; and
- (5) the size of positions held by market participants over a period of time relative to stock availability in the underlying *commodity*.

10.2.1L R

- (1) A trading venue operator must apply its position limits in respect of critical contracts to:
 - (a) spot month contracts and other months' contracts; and
 - (b) the net positions held by a *person*, together with those held on its behalf, at an aggregate group level.
- (2) A trading venue operator must require that a *person* determine the net position it holds in a *commodity derivative* for both *spot month contracts* and *other months' contracts*.
- (3) A trading venue operator must require that:
 - (a) where a *person* holds both long and short positions in any critical contracts or related contracts, the *person* net those positions (and no other positions in other *commodity derivatives*) to determine its net position other than where (4) applies;
 - (b) a position to which an exemption in MAR 10.2 applies is not aggregated for the purposes of (1)(b);
 - (c) a *parent undertaking* determines its net position by aggregating its own net position and the net positions of each of its *subsidiary undertakings* except where (3)(d) applies; and
 - (d) the *parent undertaking* of a *manager* of a collective investment undertaking must not aggregate the positions in *commodity derivatives* in any collective investment undertaking where it does not in any way influence the investment decisions in respect of opening, holding or closing those positions.
- (4) A trading venue operator must not permit the netting of positions in relation to a *related contract* where it considers this will increase the likelihood of disorderly pricing or settlement conditions.

- (5) Where (4) applies, a *trading venue operator* must inform the relevant members, participants or clients, and describe how their positions should be aggregated for the purposes of discharging their obligation to meet the position limit imposed by the *trading venue operator* in accordance with MAR 10.2.1AR.

10.2.1M R A *trading venue operator* must:

- (1) publish its position limits and apply these on a non-discriminatory basis;
- (2) maintain arrangements designed to enable it to ensure *persons* comply with position limits relating to a *critical contract* traded on its *trading venue* at all times, regardless of the location of the *person* at the time of entering into the position;
- (3) ensure the position limits on a *trading venue* it operates remain appropriate at all times;
- (4) review its position limits at least once every year and whenever there is a significant change in deliverable supply or *open interest*, or a change which significantly impacts the commodity derivatives market;
- (5) establish and maintain a methodology for applying position limits in respect of *critical contracts*;
- (6) notify the *FCA* prior to imposing a position limit unless it is not reasonably practicable to do so;
- (7) consult with its members, participants or *clients* prior to setting or modifying a position limit unless it is not reasonably practicable to do so, in accordance with its rules; and
- (8) publish in a clear and accessible manner a list of *related contracts* for each *critical contract* traded on its systems.

10.2.1N G (1) A *trading venue operator* should consider whether to apply different limits in respect of either a *spot month contract* or *other months' contract*, at different times during their contractual duration, when discharging its obligations under MAR 10.2.1AR. For example, a lower limit may need to be applied within the *spot month contract* as the contract moves closer to expiry.

- (2) A *trading venue operator* should have regard, as applicable, to:
- (a) *recognition requirements*, including systems and controls, internal audit, ensuring orderly markets and promotion and maintenance of standards; or
- (b) *common platform requirements*,

when developing methodologies for setting position limits.

- 10.2.2 D (1) A *person* must comply at all times with *commodity derivative* position limits established by the *FCA*, published at www.fca.org.uk.
- (2) A direction made under (1) applies where a *commodity derivative* is traded on a *trading venue* in the *United Kingdom*.
- (3) Position limits established under (1) shall apply to the positions held by a *person* together with those held on its behalf at an aggregate group level ~~(subject to the *non-financial entity exemption* in regulation 17(1) of the *MiFI Regulations*).~~
- (4) Position limits established under (1) shall apply regardless of the location of the *person* at the time of entering into the position.
- (5) ~~Position limits established under (1) prior to 3 January 2018, will apply from 3 January 2018. [deleted]~~

~~[Note: articles 57(1) and 57(14) of *MiFID*; and *MiFID RTS 21* in respect of *ESMA*'s methodology for *competent authorities* to calculate position limits]~~

- 10.2.2A G The *FCA* may exceptionally, by giving directions, establish position limits in respect of *commodity derivatives* to which position limit requirements imposed by *trading venues* apply.

~~Non-financial entity exemption~~ Position limits exemptions

- 10.2.3 G (1) ~~Regulation 17 of the *MiFI Regulations* regulates the position limit exemption applicable to positions in a *commodity derivative* held by or on behalf of a *non-financial entity* which are objectively measurable as reducing risks directly relating to the commercial activity of that *non-financial entity*, and which is approved by the *FCA* in accordance with the relevant criteria and procedures. Regulation 17(1) imposes an obligation on the *FCA* to disregard such positions, when calculating the position held by such entities in respect of a *commodity derivative* to which a position limit applies. [deleted]~~
- (2) ~~Regulation 17(2) of the *MiFI Regulations* enables the *FCA* to receive applications from *non-financial entities* for the purposes of obtaining an exemption from the position limits which it sets and in such form as the *FCA* may direct.~~
- (3) ~~*MiFID RTS 21* stipulates detail on positions qualifying as reducing risks directly related to commercial activities, and the application for the exemption from position limits.~~
- (4) ~~*MiFID RTS 21* clarifies that a *non-financial entity* shall notify the *FCA* if there is a significant change to the nature or value of that *non-financial entity*'s commercial activities, or its trading activities in~~

~~commodity derivatives. The obligation arises where the change is relevant to the description of the nature and value of the *non financial entity's* trading and positions held in *commodity derivatives* and their *economically equivalent OTC contracts* in a position limit exemption application it has already submitted. In this case, a *non financial entity* must submit a new application if it intends to continue to make use of the exemption.~~

~~[Note: article 57(1) of MiFID]~~

Part 2: Comes into force on 3 March 2025

10.2 Position limit requirements

...

Non-financial entity exemption

10.2.3 G ...

10.2.3A G A trading venue operator can receive applications from *non-financial entities* and *financial entities* for the purposes of obtaining an exemption from the position limits it sets. The different types of exemptions and relevant criteria and procedures are set out in MAR 10.2.6R to MAR 10.2.28G.

Non-financial entity exemption application

10.2.4 D ~~A non financial entity must complete the application form in MAR 10 Annex 1D for approval to be exempt from compliance with position limits established by the FCA in accordance with MAR 10.2.2D(1). [deleted]~~

10.2.5 G ...

10.2.6 R A trading venue operator may determine that a non-financial entity's position for the purposes of a position limit does not include a position it holds, or one held on its behalf, which is:

- (1) objectively measurable as reducing risks directly relating to its commercial activity; and
- (2) approved by the trading venue operator setting the position limit in accordance with:
 - (a) the relevant criteria and methods in MAR 10.2.7R; and
 - (b) the relevant procedure in MAR 10.2.9R to MAR 10.2.10R.

10.2.7 R A trading venue operator may make the determination in MAR 10.2.6R where it is satisfied that the following criteria are met:

- (1) a position held by a *non-financial entity*:
- (a) reduces the risks arising from the potential change in the value of assets, services, inputs, products, commodities or liabilities that the *non-financial entity* or its group owns, produces, manufactures, processes, provides, purchases, merchandises, leases, sells, or incurs or reasonably anticipates owning, producing, manufacturing, processing, providing, purchasing, merchandising, leasing, selling or incurring in the normal course of its business; or
 - (b) qualifies as a hedging contract pursuant to *UK-adopted IFRS*; and
- (2) the position held by the *non-financial entity* is capable of being unwound in an orderly way.
- 10.2.8 G For the purposes of discharging the obligation in *MAR 10.2.7R(2)*, a *trading venue operator* should consider its own rules and appropriate metrics, such as the size of the position relative to the open interest in the relevant market and market conditions, including liquidity.
- 10.2.9 R When making a determination in accordance with *MAR 10.2.6R*, a *trading venue operator* must require a *non-financial entity* to submit to it at least the following information, at the time of its application and in relation to the following 12 months, which demonstrates how the position reduces risks directly relating to the *non-financial entity's* commercial activity:
- (1) a description of the nature and value of the *non-financial entity's* commercial activities in the *commodity* underlying the *commodity derivative* for which an exemption is sought;
 - (2) a description of the nature and value of the *non-financial entity's* activities in the trading of and positions held in the relevant *commodity derivatives* traded on *trading venues* and in *related OTC contracts*;
 - (3) a description of the nature and size of the exposures and risks in the *commodity* which the *non-financial entity* has or expects to have as a result of its commercial activities and which are or would be mitigated by the use of commodity derivatives; and
 - (4) an explanation of how the *non-financial entity's* use of commodity derivatives directly reduces its exposure and risks in its commercial activities.
- 10.2.10 R A qualifying risk-reducing position taken on its own or in combination with other derivatives is one, for the purposes of *MAR 10.2.6R*, for which the *non-financial entity*:
- (1) describes the following in its internal policies:

- (a) the types of commodity derivative contract included in the portfolios used to reduce risks directly relating to commercial activity and their eligibility criteria;
 - (b) the link between the portfolio and the risks that the portfolio is mitigating; and
 - (c) the measures adopted to ensure that the positions concerning those contracts serve no other purpose than covering risks directly related to the commercial activities of the *non-financial entity*, and that any position serving a different purpose can be clearly identified; and
- (2) is able to provide a sufficiently disaggregated view of the portfolios in terms of class of commodity derivative, underlying *commodity*, time horizon and any other relevant factors.
- 10.2.11 R *A trading venue operator* must require a *non-financial entity* to notify it:
- (1) promptly if there is a significant change to the nature or value of the *non-financial entity's* commercial activities or its trading activities in *commodity derivatives*, and the change is relevant to the information required in *MAR 10.2.9R*;
 - (2) promptly of a breach of any condition relating to an exemption; and
 - (3) in any event, on an annual basis, of its intention to rely on the exemption or otherwise, and supplying any changes to the information previously submitted in accordance with *MAR 10.2.9R*.
- 10.2.12 R *A trading venue operator* must notify the *FCA*:
- (1) promptly of an exemption granted to a *non-financial entity* in accordance with *MAR 10.2.6R*, including any conditions such as an *exemption ceiling* attached to the exemption; and
 - (2) on an annual basis of all exemptions from position limits, granted by it to *non-financial entities*, including:
 - (a) any *exemption ceilings*;
 - (b) positions that exceeded those *exemption ceilings*; and
 - (c) steps taken to address resulting risks.
- 10.2.13 R *A trading venue operator* must review exemptions from position limits granted to *non-financial entities*:
- (1) at least on an annual basis; and
 - (2) whenever it receives a notification as described in *MAR 10.2.11R*.

Pass-through hedging exemption

- 10.2.14 R A trading venue operator may determine that a financial entity's position for the purposes of a position limit does not include a position it holds or one held on its behalf for the purposes of enabling a non-financial entity to benefit from the hedging exemption.
- 10.2.15 R A trading venue operator may determine that a financial entity's (A's) position for the purposes of a position limit does not include a position it holds or one held on its behalf when it:
- (1) arises under a commodity derivative traded on a trading venue; and
 - (2) is entered into by A on a trading venue for the purpose of off-setting the risk arising from a contract with a non-financial entity (B) facilitating hedging activity by B.
- 10.2.16 G Positions for the purposes of MAR 10.2.14R may include a position in a contract a financial entity (A) enters into on a trading venue with a non-financial entity (B) to enable B to benefit from the hedging exemption. For the purposes of MAR 10.2.15R, they may also include a position in a contract entered into on a trading venue by A to offset an OTC position it has entered into with B, when B conducts hedging activity.
- 10.2.17 R A trading venue operator may only make the determination with regard to MAR 10.2.15R when a financial entity has obtained written confirmation from a non-financial entity that the position entered into facilitates hedging activity.
- 10.2.18 R When making a determination in accordance with MAR 10.2.14R or MAR 10.2.15R, a trading venue operator must require a financial entity to submit to it at least the following information at the time of its application and where possible in relation to the following 12 months:
- (1) a description of the financial entity's risk-mitigation services in the commodity underlying the commodity derivative for which an exemption is applied; and
 - (2) a description of the financial entity's trading activity and positions in commodity derivatives for which an exemption is applied, including in OTC commodity derivatives that relate to providing risk-mitigation services.
- 10.2.19 R A trading venue operator must require a financial entity to notify it:
- (1) promptly if there is a significant change relevant to the information set out in MAR 10.2.18R; and
 - (2) on an annual basis of its intention to rely on the exemption or otherwise, and supplying any changes to the information previously

submitted in accordance with MAR 10.2.18R, including information relating to the period for the next 12 months.

- 10.2.20 R A trading venue operator must notify the FCA:
- (1) promptly of an exemption granted to a financial entity in accordance with MAR 10.2.14R or MAR 10.2.15R, including any conditions such as an exemption ceiling attached to the exemption; and
 - (2) on an annual basis of all exemptions from position limits granted by it to financial entities, including:
 - (a) exemption ceilings;
 - (b) positions that exceeded those exemption ceilings; and
 - (c) steps taken to address resulting risks.

- 10.2.21 R A trading venue operator must review all exemptions from position limits granted to financial entities:
- (1) at least on an annual basis; and
 - (2) whenever it receives a notification as described in MAR 10.2.19R(1).

Liquidity provider exemption

- 10.2.22 R A trading venue operator may determine that a position limit does not apply to a position held by a person for a position that is objectively measurable as resulting from a transaction consistent with obligations to provide liquidity on a trading venue.
- 10.2.23 R A trading venue operator may make the determination in MAR 10.2.22R where:
- (1) it receives an application from a person for these purposes;
 - (2) the obligations to provide liquidity are clearly defined and relate to observable metrics of market quality, including depth and tightness of the spread;
 - (3) the position arises from discharge of the person's obligation as a liquidity provider; and
 - (4) the exemption is temporary in duration and the person reduces its position as soon as reasonably practicable prior to the expiry of the contract.
- 10.2.24 R A trading venue operator must ensure that an application for the purposes of MAR 10.2.22R provide as a minimum a description of the liquidity the applicant provides in respect of the commodity derivatives for which an exemption from a position limit is being requested.

- 10.2.25 R A trading venue operator must notify the FCA;
- (1) promptly of an exemption granted to it in accordance with MAR 10.2.22R, including any conditions such as an exemption ceiling attached to the exemption; and
 - (2) on an annual basis of all exemptions from position limits granted by it to in accordance with MAR 10.2.22R, including:
 - (a) any exemption ceilings;
 - (b) positions that exceeded those exemption ceilings; and
 - (c) steps taken to address resulting risks.

All exemptions

- 10.2.26 R A trading venue operator must:
- (1) provide the FCA, upon request, with such information as the FCA may reasonably require to enable a fuller understanding of the basis for granting an exemption to which MAR 10.2 applies;
 - (2) store information in an easily retrievable way that is accessible for future reference by the FCA for the purposes of (1); and
 - (3) ensure that its systems can identify:
 - (a) when an exemption under MAR 10.2 is being used in relation to a market participant's position in a commodity derivative; and
 - (b) which exemption is being used.
- 10.2.27 R (1) A trading venue operator may establish an exemption ceiling for the purposes of any of the exemptions in MAR 10.2 where to do so would mitigate the risk that large positions otherwise pose to the orderly pricing and settlement of a critical contract.
- (2) A trading venue operator must explain in its rules how it will apply and determine an exemption ceiling, including how and when it may be amended.
- 10.2.28 G The use of an exemption ceiling can enable a trading venue operator to ensure that exempt positions are subject to appropriate management and oversight, to mitigate risks to orderly trading and settlement.

Part 3: Comes into force on 6 July 2025

10.3 Position management controls

...

Position management controls applicable to UK market operators operating a trading venue

10.3.2 G ~~A UK market operator operating a trading venue which trades commodity derivatives must apply position management controls on that trading venue, in accordance with paragraph 7BA of the Schedule to the Recognition Requirements Regulations, as inserted by the MiFI Regulations. [deleted]~~
~~[Note: article 57(8) to 57(10) of MiFID]~~

10.3.2A R A UK market operator is subject to MAR 10.3.3R as if it were a UK firm operating a multilateral trading facility or an OTF and references to an MTF are to a regulated market or an MTF that it operates.

10.3.2B G A trading venue operator's position management controls should have regard to the application of position limit requirements, as described in MAR 10.1.2G.

Position management controls applicable to UK firms and UK branches of third country investment firms operating an MTF or OTF

10.3.3 R ...
~~[Note: article 57(8) to 57(10) of MiFID]~~

Additional position management controls and accountability thresholds

10.3.3A R A trading venue operator must apply additional position management controls in relation to the critical contracts and related contracts traded on its systems:

- (1) ensuring the effective and timely identification of substantial positions, including positions subject to an exemption referred to in MAR 10.2; and
- (2) taking steps to manage excessive positions or positions which impair orderly pricing and settlement conditions, including reducing or terminating these where a person fails to comply with a request to manage their positions further to exceeding an accountability threshold, exemption ceiling or otherwise.

10.3.3B R (1) A trading venue operator must apply MAR 10.3.3CR to spot month contacts traded on its systems.

- (2) A trading venue operator must consider whether it is necessary to apply MAR 10.3.3CR to other months' contracts traded on its systems in order to maintain an orderly market.

- 10.3.3C R (1) A trading venue operator must set *accountability thresholds* below position limits enabling early identification of substantial positions and risk of breaching a position limit.
- (2) A trading venue operator must ensure that its *accountability thresholds* are adequate, transparent, non-discriminatory, clear and accessible to market participants, at all times. It must also specify how the controls apply to *persons*.
- (3) A trading venue operator must keep the adequacy of its *accountability thresholds* under review on a regular basis and notify the *FCA* promptly of these reviews, including:
- (a) whenever there is a significant change to either the position limit or one or more of the factors in *MAR 10.3.3ER*; and
- (b) at least on an annual basis.
- (4) A trading venue operator must explain when notifying the *FCA* in accordance with (3):
- (a) how it had regard to the factors in *MAR 10.3.3ER*; and
- (b) the relationship between the *accountability threshold* and corresponding position limit.
- (5) A trading venue operator, for the purposes of its annual notification under (3)(b), must inform the *FCA* of:
- (a) how many times an *accountability threshold* has been exceeded, including the duration of each occurrence;
- (b) the identity of the market participant; and
- (c) the steps then taken by the *trading venue operator* to address the risks identified.
- (6) A trading venue operator must in respect of *critical contracts* traded on a *trading venue* it operates:
- (a) identify the *related contracts*; and
- (b) notify the *FCA* promptly of the details of the contracts in paragraph (a).
- 10.3.3D G For the purposes of discharging its obligations under *MAR 10.3.3BR(2)*, a *trading venue operator* should consider factors such as:
- (1) the relationship or dependence between the pricing of the *spot month contract* and the pricing of the *other months' contract*;

- (2) the volatility of price of the *commodity derivative*;
- (3) the historical pattern of large and concentrated positions in *other months' contracts*; and
- (4) the frequency and size of breaches of position limits and position management interventions.

10.3.3E R A trading venue operator, when setting *accountability thresholds*, must establish a methodology that has regard at least to:

- (1) the level of the position limit and the factors determining the position limit;
- (2) the need to ensure increasing positions can be investigated before risks crystallise;
- (3) whether the volume and any required remedial action of *accountability threshold* excesses indicates that the control is effective in providing early warning of prospective position limit breaches and enabling action; and
- (4) market concentration and concentrated trading activity.

10.3.3F R A trading venue operator, when setting *accountability thresholds*, may exclude positions, to which an exemption in *MAR 10.2* applies, where an *exemption ceiling* is in place.

Risk assessment framework

- 10.3.3G R (1) A trading venue operator must develop a risk assessment framework to enable it to discharge its obligations under *MAR 10.3.3AR* and to determine the need for *additional reporting*.
- (2) The risk assessment framework must have regard at least to:
- (a) exemptions determined in accordance with *MAR 10.2*, including any conditions attaching to exemptions in the form of *exemption ceilings* or otherwise;
 - (b) *accountability thresholds*;
 - (c) whether a *person* otherwise holds a concentrated position in the physical or *commodity derivatives* markets which presents a material risk to the functioning of a *commodity derivatives* market, including the risk of *market abuse* and to orderly pricing and settlement conditions;
 - (d) the price and liquidity of and other relationships between:
 - (i) *critical contracts*; and

(ii) related OTC contracts or related overseas commodity derivative contracts; and

(e) the relevance of (d) to the position management of critical contracts traded on a trading venue it operates.

Additional reporting

- 10.3.3H R (1) A trading venue operator must have the power to require additional reporting to it by a member or participant (A) acting on its behalf or on behalf of a client (B) to enable it to discharge its obligation under (2).
- (2) A trading venue operator must obtain additional information from A or B as it determines necessary to ensure the proper monitoring of risks to its markets and to protect orderly pricing and settlement conditions in relation to the critical contracts or related contracts traded on its systems.
- (3) In discharging its obligations under (2), a trading venue operator must consider whether to require additional reporting in relation to OTC positions.
- (4) For the purposes of (3), a trading venue operator may consider the size of the relevant OTC derivatives market, the potential impact that market may have on the orderly functioning of the relevant market for the critical contract traded on its systems and the position management controls it operates.
- (5) A trading venue operator must notify the FCA promptly when and how it decides to exercise its power to require additional reporting.
- 10.3.3I R (1) A trading venue operator may require that additional information relating to the price or delivery of a critical contract or related contract form part of additional reporting when MAR 10.3.3HR applies, including at least related OTC contracts positions, and also where relevant:
- (a) related overseas commodity derivative contracts positions;
- (b) trades in the underlying commodity of the critical contract;
- (c) trades used to settle commodity futures, including prices published by price reporting agencies; and
- (d) inventories, storage and infrastructure integrity at locations where deliveries are made.
- (2) A trading venue operator may seek information about inventory, storage and infrastructure integrity from other data sources in addition

to the position holder subject to *additional reporting* imposed further to MAR 10.3.3HR.

- (3) A trading venue operator must inform its members, participants or clients of related OTC contracts and, where relevant, related overseas commodity derivative contracts to which additional reporting applies and the form and frequency of that reporting.

10.3.3J G A UK RIE should have regard to REC 2.4.3G(12) when discharging its obligations relating to additional reporting.

Market risk analysis

- 10.3.3K R (1) A trading venue operator must use the information referred to in MAR 10.3 and the reported information in MAR 10.4 to perform market risk analysis.
- (2) The market risk analysis must include at least:
- (a) an identification of risks arising from the underlying physical commodity, related OTC contracts and related overseas commodity derivative contracts markets in relation to their impact on critical contracts and related contracts traded on a trading venue it operates; and
- (b) how those risks are being managed by the trading venue operator.
- (3) A trading venue operator must:
- (a) make available its market risk analysis to the FCA on a regular basis and, upon request, data underlying the analysis; and
- (b) store information in an easily retrievable way that is accessible for future reference by the FCA for the purposes of (3)(a).
- (4) A trading venue operator must make available its market risk analysis to the FCA:
- (a) whenever there is a significant change in market risk, having regard to size or concentration of positions, settlement or delivery and underlying commodity markets; and
- (b) at least on an annual basis.

Supervision of position management controls

- 10.3.4 G (1) ~~An operator of a trading venue referred to in MAR 10.3.1G~~ A trading venue operator may include provisions in its rulebook which impose appropriate obligations on its members or participants as part of compliance with its position management controls obligations, including in relation to accountability thresholds and additional reporting.
- (2) A trading venue operator should require, via its rulebook or otherwise, further reporting by a member or participant acting on its behalf or on behalf of a client, as well as in the circumstances to which additional reporting applies. This includes imposing a responsibility on members to put arrangements in place with clients, enabling ready access to data at the level of the client.
- 10.3.4A R When additional reporting applies, a trading venue operator may consider the following factors as part of its monitoring and oversight:
- (1) historic and anticipated position sizes and risk management capabilities of the individual markets or participants;
- (2) the extent and quality of the individual member or participant's engagement with the trading venue operator and response to its inquiries;
- (3) where a contract is physically deliverable, the complexity of the delivery process and a position holder's expertise in taking delivery of the underlying commodity; and
- (4) how an individual member or participant's positions compare with other position holders.
- 10.3.4B R A trading venue operator must notify the FCA prior to implementation of each of the following and their subsequent modification:
- (1) the risk assessment framework, additional reporting and market risk analysis;
- (2) accountability thresholds;
- (3) governance arrangements to be followed for adoption and continuing review of position limit setting, the risk assessment framework, accountability thresholds and market risk analysis, including allocation of senior management responsibility, policies for managing conflicts, systems and controls, and board oversight;
- (4) the methodology for and setting of position limits and accountability thresholds, including the identification of related contracts and positions not eligible for netting;
- (5) the list of related contracts, related OTC contracts and, where relevant, related overseas commodity derivative contracts;

- (6) policies and procedures relating to:
- (a) the granting of exemptions in MAR 10.2, including the approach to the setting of *exemption ceilings*; and
 - (b) position limit breaches, including resolution and access to enforcement tools; and
- (7) arrangements for the sharing of information with relevant *CCPs*.
- 10.3.4C G When a *trading venue operator* notifies the *FCA* in accordance with *MAR 10.3.4BR*, it should allow such time as is necessary for the *FCA* to consider and assess the relevant matters, prior to proposed implementation.
- ~~Position management controls: Procedure for informing the FCA~~
- 10.3.5 G ~~A firm must comply with the obligation in *MAR 10.3.3R(4)* by completing the form available at www.fca.org.uk. [deleted]~~
- 10.3.6 G A *trading venue operator* should have regard, as applicable, to:
- (1) *recognition requirements* including systems and controls, internal audit, ensuring orderly markets and promotion, and maintenance of standards; or
 - (2) *common platform requirements*,
- when developing *accountability thresholds* and applying *additional reporting*, as well as when granting exemptions in accordance with *MAR 2*.
- 10.3.7 G (1) A *trading venue operator* should establish notification and information sharing arrangements with *CCPs* clearing transactions executed on the *trading venues* it operates, in particular when it identifies potential concerns that relate to *CCP* regulatory functions, as part of the application for exemption process or as a result of *additional reporting*.
- (2) When requiring information from position holders for the purpose of position management controls or sharing such information with *CCPs*, the *trading venue operator* should do so only for the purpose of discharging its regulatory functions and responsibilities.
- 10.3.8 R A *trading venue operator* (A) must exercise reasonable endeavours to identify and determine:
- (1) any related *OTC derivative*; or
 - (2) any *commodity derivative* traded on an overseas trading venue:

- (a) which provides a comparable economic exposure to a *critical contract* or *related contract* traded on a *trading venue A* operates, including where its underlying has the same *commodity* for delivery at a location specified in the *critical contract*; or
- (b) the settlement price of which is linked to or capable of materially influencing the settlement price of a *critical contract* or *related contract* traded on a *trading venue A* operates.

10.4 Position reporting

Application

- 10.4.1 G The application of this section is set out in the following table:

Type of firm	Applicable provisions
<i>Regulated market</i>	<u>MAR 10.4.2G MAR 10.4.1AR to MAR 10.4.1DR and MAR 10.4.3AR</u>
<i>UK firm operating a multilateral trading facility or an OTF and a UK branch of a third country investment firm operating a multilateral trading facility or an OTF</i>	<u>MAR 10.4.1AR to MAR 10.4.1DR and MAR 10.4.3R to MAR 10.4.6G</u>
<i>MiFID investment firm</i>	<u>MAR 10.4.7D to MAR 10.4.9D MAR 10.4.8D and MAR 10.4.11G</u>
...	

Position reporting by trading venue operators

- 10.4.1A R A trading venue operator must send the FCA a weekly report regarding the aggregate positions held at the close of business of each week, no later than 5.30pm on Wednesday of the following week.
- 10.4.1B R A trading venue operator must submit a weekly report to the FCA as soon as possible and no later than 5.30pm on Thursday of that week, where any of Monday, Tuesday or Wednesday of the week in which that report is to be submitted is not a working day.
- 10.4.1C R (1) A trading venue operator must prepare a weekly report separately for each commodity derivative and emission allowance traded on its

trading venue in accordance with the formats set out in the tables in MAR 10 Annex 3R.

- (2) A weekly report must contain:
- (a) The aggregate of all positions held by the different persons in each of the categories set out in MAR 10 Annex 3R in an individual commodity derivative or emission allowance traded on that trading venue; and
- (b) all positions across all maturities of all contracts.
- (3) A trading venue operator must submit to the FCA a weekly report in a common standard XML format.

10.4.1D R A trading venue operator must submit to the FCA a breakdown of the positions referred to in MAR 10.4.8D by means of a daily position report in:

- (1) common standard XML format; and
- (2) the format set out in the tables in MAR 10 Annex 4R.

Position reporting by UK regulated markets

10.4.2 G ...

~~[Note: article 58(1) of MiFID]~~

Position reporting by UK firms and UK branches of third country investment firms operating an MTF or OTF: Reports

10.4.3 R ...

- (2) ~~A firm must make public and provide to the FCA a weekly report with the aggregate positions held by the different categories of persons for the different commodity derivatives or emission allowances traded on the trading venue, where those instruments meet the criteria of article 83 of the MiFID Org Regulation~~ MAR 10.4.3AR, specifying:

...

...

- (4) For the weekly report mentioned in (2) above, the firm must differentiate between:
- (a) ~~positions which in an objectively measurable way reduce risks directly relating to commercial activities~~ are subject to the exemptions in MAR 10.2, identifying the relevant exemption by reference to the non-financial entity, pass-through hedging or liquidity provider exemption, as applicable; and

(b) other positions.

~~[Note: article 58(1) of MiFID, MiFID-ITS 4, on position reporting and MiFID-ITS 5 on the format and timing of weekly position reports]~~

- 10.4.3A R (1) For the purpose of *weekly reports*, the obligation for a *trading venue operator* to make public such a report applies when both of the following 2 thresholds are met:
- (a) 20 open position holders exist in a given contract on a given *trading venue*; and
 - (b) the absolute amount of the gross long or short volume of total *open interest*, expressed in the number of lots of the relevant *commodity derivative*, exceeds a level of 4 times the deliverable supply in the same *commodity derivative*, expressed in number of lots.
- (2) Where the *commodity derivative* does not have a physically deliverable underlying asset and for *emission allowances*, (1)(b) does not apply.
- (3) The threshold set out in (1)(a) applies in aggregate on the basis of all of the categories of *persons* regardless of the numbers of position holders in any single category of *persons*.
- (4) For contracts where there are fewer than 5 position holders active in a given category of *persons*, the number of position holders in that category need not be published.
- (5) For contracts that meet the conditions set out (1) for the first time, *trading venues* must publish the contracts' first *weekly report* as soon as it is feasibly practical, and in any event no later than 3 weeks from the date on which the thresholds are first triggered.
- (6) Where the conditions set out in (1) are no longer met, *trading venues* must continue to publish the *weekly reports* for a period of 3 months. The obligation to publish the *weekly report* no longer applies where the conditions set out in (1) have not been met continuously upon expiry of that period.

Position reporting by UK firms and UK branches of third country investment firms operating an MTF or OTF: classification of persons holding positions in commodity derivatives or emission allowances

10.4.4 R ...

~~[Note: article 58(4) of MiFID]~~

Position reporting by UK firms and UK branches of a third country investment firms operating an MTF or OTF: Procedure for reporting to the FCA

10.4.5 D ...

- (2) A *firm* shall report to the *FCA*:
- (a) (where it meets the minimum threshold as specified in ~~article 83 of the *MiFID-Org Regulation*~~ MAR 10.4.3AR) the ~~weekly report~~ weekly report referred to in MAR 10.4.3R(2), by using in the form set out in Annex I of *MiFID-ITS 4* MAR 10 Annex 3R, and publish it on its website; and
 - (b) in respect of the daily report referred to in MAR 10.4.3R(3):
 - (i) ~~by using in~~ the form set out in Annex II of *MiFID-ITS 4* available at <https://www.fca.org.uk/markets/mifid-ii/commodity-derivatives> MAR 10 Annex 4R; and
 - (ii) in each case, the report must be provided to the *FCA* by 21:00 GMT 9pm the following *business day*.

~~[Note: *MiFID-ITS 4* on position reporting]~~

Position reporting by UK firms and UK branches of a third country investment firms operating an MTF or OTF: ~~Duplication of reporting~~

10.4.6 G For the purposes of making the ~~weekly report~~ weekly report referred to under MAR 10.4.3R(2), the *FCA* will accept an email containing a link to the report, as published on the *firm's* website. Emails should be sent to the *FCA* at COT_reports@fca.org.uk.

Position reporting by members, participants or clients of UK trading venues: trading venue participant reporting

10.4.7 D ...

~~[Note: article 58(3) of *MiFID*]~~

MiFID investment firms and UK branches of third country investment firms: ~~OTC~~ reporting to the *FCA*

10.4.8 D ...

- (2) An *investment firm* in (1) trading in a *commodity derivative* or *emission allowance* outside a *trading venue* must, where the *FCA* is the *competent authority* of the *trading venue* where that *commodity derivative* or *emission allowance* is traded, provide the *FCA* with a report containing a complete breakdown of:
- (a) their positions taken in those *commodity derivatives* or *emission allowances* traded on a *trading venue*; and
 - (b) ~~*economically equivalent OTC contracts*~~; and ~~[deleted]~~

- (c) the positions of their *clients* and the clients of those clients until the end client is reached, in accordance with article 26 of *MiFIR*.
- (3) The report in (2) must be submitted to the *FCA*, for each *business day*, by ~~21:00 GMT~~ 9pm the following *business day*, using in the form set out in ~~Annex II of *MiFID-ITS 4* available at <https://www.fca.org.uk/markets/mifid-ii/commodity-derivatives>~~ MAR 10 Annex 4R.
- (4) ~~The obligation in (2) does not apply where there is a central competent authority for the commodity derivative other than the FCA.~~
[deleted]

[~~Note: 58(2) of *MiFID*, and *MiFID-ITS 4* on position reporting~~]

EEA MiFID investment firms who are members, participants or clients of UK trading venues: trading venue participant report and OTC reporting to the FCA

10.4.11 G ...

- (2) A *firm* subject to *MAR 10.4.8D(2)* may use a third party technology provider to submit to the *FCA* the report referred to in *MAR 10.4.8D(2)* provided that it does so in a manner consistent with *MiFID*. It will retain responsibility for the completeness, accuracy and timely submission of the report and should populate field 5 of ~~*MiFID-ITS 4 Annex II*~~ *MAR 10 Annex 4R Table 2* with its own reporting entity identification. It should be the applicant for, and should complete and sign, the *FCA MDP on-boarding application form*.

...

- (4) A *firm* subject to *MAR 10.4.8D(2)* may arrange for the *trading venue* where that *commodity derivative* or *emission allowance* is traded to provide the *FCA* with the report provided that it does so in a manner consistent with *MiFID*. The *firm* will retain responsibility for the completeness, accuracy and timely submission of the report, submitted on its behalf. The *firm* should populate field 5 of ~~*MiFID-ITS 4 Annex II*~~ *MAR 10 Annex 4R Table 2* with its own reporting entity identification.

10.5 Other reporting, notifications and information requirements

Information requirement

10.5.1 G Regulation 27 of the *MiFI Regulations* provides the *FCA* with the power to:

...

- (2) require ~~an operator~~ of a *trading venue operator* to provide information including all relevant documentation on, or concerning:
 - (a) trades a *person* has undertaken, or intends to undertake in a contract to which a position limit relates; and
 - (b) trades a *person* has undertaken, or intends to undertake in a contract or within a class of *commodity derivatives* to which position management requirements relate.

~~[Note: article 69(2)(j) of *MiFID*]~~

- 10.5.1A G The *FCA* may consider exercising the power in Regulation 27 of the *MiFI Regulations* to require a *trading venue operator* or other *person* to collect or provide data on *related OTC contracts*.

Power to intervene

- 10.5.2 G The following provisions of the *MiFI Regulations* regulate the power of the *FCA* to intervene in respect of position limits:
 - (1) Regulation 28 provides that the *FCA* may, if it considers necessary for the purpose of advancing one or more of its *operational objectives*, limit the ability of any *person* to enter into a contract for a ~~*commodity derivative*~~ commodity derivative, restrict the size of positions a *person* may hold in such a contract, or require any *person* to reduce the size of a position held, notwithstanding that the restriction or reduction would be more restrictive than the position limit established by the *trading venue* or the *FCA* in accordance with article 57 of *MiFID* to which the contract relates (under regulation 16 of the *MiFI Regulations*); and

...

~~[Note: article 69(2)(o) and 69(2)(p) of *MiFID*]~~

Reporting requirements

- 10.5.3 G The following provisions of the *MiFI Regulations* regulate the power of the *FCA* to impose reporting requirements in respect of positions taken in *commodity derivatives* and *emission allowances*:

...

~~[Note: article 69(2)(j) of *MiFID*]~~

...

~~Notifications by unauthorised persons: non financial entity exemption applications~~

10.5.5 G ~~SUP 15.3.13G and SUP 15.3.14G apply to notifications of an application by an unauthorised person for the non-financial entity exemption under regulation 17 of the MiFI Regulations as if the person is a firm to which SUP 15.3.11R applies. [deleted]~~

...

Territoriality

10.5.7 G The powers of the FCA referred to in MAR 10.5.1G to MAR 10.5.3G can be applied to a person regardless of whether the person is situated or operating in the UK or abroad, ~~where the relevant position relates to a commodity derivative or emission allowance for which the FCA is responsible for setting a position limit, or economically equivalent OTC contracts.~~

...

MAR 10 Annex 1 (Application form for a non-financial entity for an exemption from compliance with position limits) is deleted in its entirety. The deleted text is not shown but the annex is marked [deleted] as shown below.

10 ~~Application form for a non-financial entity for an exemption from~~
Annex ~~compliance with position limits [deleted]~~
1D

Insert the following new annexes, MAR 10 Annex 2R, MAR 10 Annex 3R and MAR 10 Annex 4R, after MAR 10 Annex 1D. The text is all new and is not underlined.

10 **List of critical contracts and related contracts subject to Position Limits**
Annex
2R

Contract name
LME Aluminium
LME Copper
LME Lead
LME Nickel
LME Tin
LME Zinc
IFEU London Cocoa Futures
IFEU Robusta Coffee Futures
IFEU White Sugar Futures
IFEU UK Feed Wheat Futures

IFEU Low Sulphur Gasoil Futures
IFEU UK Natural Gas Futures
IFEU Brent Crude Futures
IFEU T-West Texas Intermediate Light Sweet Crude Futures

10 Format for the weekly reports
Annex
3R

[*Editor’s note:* The 3 tables previously located at Annex I of the following technical standard are to be moved to this annex:

Commission Implementing Regulation (EU) 2017/1093 of 20 June 2017 laying down implementing technical standards with regard to the format of position reports by investment firms and market operators.

Where amendments are to be made to the content of the tables, underlining indicates new text.]

Table 1 Weekly Reports

Notation of the position quantity	Investment Firms or credit institutions		Investment Funds		Other Financial Institutions		Commercial Undertakings		Operators with compliance obligations under Directive 2003/87/EC <u>or the trading scheme order 2020</u>	
	Long	Short	Long	Short	Long	Short	Long	Short	Long	Short
...										

...

10 Format for the daily reports
Annex
4R

[*Editor's note:* The 2 tables previously located at Annex II of the following technical standard are to be moved to this annex:

Commission Implementing Regulation (EU) 2017/1093 of 20 June 2017 laying down implementing technical standards with regard to the format of position reports by investment firms and market operators.

Where amendments are to be made to the content of the tables, underlining indicates new text and striking through indicates deleted text.]

...

Table 2 Tables of fields to be reported for all positions across all maturities of all contracts for the purposes of ~~Article 2~~ MAR 10.4.1DR

FIELD	DETAILS TO BE REPORTED	FORMAT FOR REPORTING
...		
Trading venue identifier	<p>Field to be populated with the ISO 10383 segment MIC for positions reported in respect of on-venue contracts. Where the segment MIC does not exist, use the operating MIC.</p> <p>Use MIC code "XXXX" for off-venue positions in economically equivalent OTC contracts <u>or related OTC contracts</u>.</p> <p>Use MIC code "XOFF" for listed derivatives or emission allowances traded off-exchange.</p>	{MIC}
Position type	<p>Field to report whether the position is in either futures, options, emission allowances or derivatives thereof, commodity derivatives defined under point (c) of Article 4(1)(44) of Directive 2014/65/EU of the European Parliament and of the Council or any other contract type <u>article 2(1)(24)(c) of MiFIR</u>.</p>	
...		

Indicator of whether the position is risk reducing in relation to commercial activity	Field to report whether the position is risk reducing in accordance with Article 7 of Delegated Regulation (EU) 2017/594 <u>the hedging exemption in MAR 10.2.</u>	
<u>Indicator of whether the position is a pass-through of a hedging exemption</u>	Field to report whether the <u>position is a pass-through of a position that is risk-reducing in accordance with MAR 10.2.</u>	
<u>Indicator of whether the position is entered into as part of an obligation to provide liquidity</u>	Field to report whether the position is <u>part of an obligation to provide liquidity in accordance with MAR 10.2.</u>	

Amend the following as shown.

Sch 2 Notification requirements

...

Sch 2.2 G Notification requirements

Handbook Reference	Matter to be notified	Contents of Notification	Trigger event	Time allowed
...				
MAR 9.3.10R(2)
<u>MAR 10.2.1CR</u>	<u>Other contracts which offer a comparable economic exposure to that provided by a critical contract and may be used to circumvent the purpose of MAR 10.2.1AR.</u>	<u>Details of the contract</u>	<u>Where a trading venue operator identifies a contract to which MAR 10.2.1CR(1) applies.</u>	<u>Promptly</u>
<u>MAR 10.2.1ER</u>	<u>When a contract may amount to a critical contract</u>	<u>Details of the contract</u>	<u>When a trading venue operator considers that a contract may amount to a critical contract</u>	<u>Promptly</u>

			<u>and requires closer monitoring by it or the FCA for this purpose</u>	
<u>MAR 10.2.1MR</u>	<u>Position limit relating to commodity derivative</u>	<u>Position limit details relating to spot month contracts and other months' contracts</u>	<u>Occurrence</u>	<u>Without delay and prior to imposing a position limit unless it is not reasonably practicable to do so</u>
<u>MAR 10.2.11R</u>	<u>Position limit exemption granted to a non-financial entity</u>	<u>Details including any conditions such as an exemption ceiling attached to the exemption</u>	<u>Occurrence</u>	<u>Promptly and on an annual basis a list of all exemptions etc. granted to non-financial entities</u>
<u>MAR 10.2.20R</u>	<u>Position limit exemption to a financial entity</u>	<u>Details including any conditions such as an exemption ceiling attached to the exemption</u>	<u>Occurrence</u>	<u>Promptly and on an annual basis a list of all exemptions etc. granted to financial entities</u>
<u>MAR 10.2.25R</u>	<u>Position limit exemption granted to a liquidity provider</u>	<u>Details including any conditions such as an exemption ceiling attached to</u>	<u>Occurrence</u>	<u>Promptly and on an annual basis a list of all exemptions etc. granted to liquidity providers</u>

		<u>the exemption</u>		
<u>MAR 10.3.3CR</u>	<u>Accountability thresholds review</u>	<u>Report details</u>	<u>Whenever there is a significant change to either the position limit or one or more of the factors in MAR 10.3.3ER; and at least on an annual basis</u>	<u>Promptly</u>
<u>MAR 10.3.3CR</u>	<u>Related contracts</u>	<u>Details of the contract</u>	<u>Occurrence</u>	<u>Promptly</u>
<u>MAR 10.3.4BR</u>	<u>Miscellaneous comprising:</u> <ul style="list-style-type: none"> • <u>risk assessment framework including policies and procedures related to accountability threshold breaches, market risk analysis and additional reporting arrangements;</u> • <u>additional reporting and other reporting arising from market risk analysis;</u> • <u>accountability thresholds;</u> • <u>governance arrangements including for setting position limits and accountability thresholds, identification of relevant contracts and netting arrangements;</u> 	<u>Details</u>	<u>Implementation and modification</u>	<u>Prior to implementation and modification allowing such time as is necessary for the FCA to consider and assess the relevant matters, prior to proposed implementation</u>

	<ul style="list-style-type: none"> • <u>methodologies;</u> • <u>list of <i>related contracts, related OTC contracts</i> and where relevant <i>related overseas commodity derivative contracts</i>;</u> • <u>policies and procedures relating to granting of position limit exemptions including <i>exemption ceilings</i> and position limit breaches; and</u> • <u>information sharing with <i>CCPs</i>.</u> 			
--	---	--	--	--

Part 4: Comes into force on 3 March 2025

Insert the following new chapter, MAR TP 3, after MAR TP 2 (Transitional provisions relating to trading venue operators and transparency investment firms). The text is all new and is not underlined.

TP 3 Transitional provisions relating to trading venue operators

	Application	
1.1	R	The <i>rules</i> in MAR TP 3 applies in respect of <i>trading venue operators</i> from 3 March 2025 to 5 July 2026.
	Position management controls	
1.2	R	A <i>trading venue operator</i> must notify the <i>FCA</i> prior to implementation of each of the following:
	(1)	the risk assessment framework, <i>additional reporting</i> and market risk analysis;
	(2)	<i>accountability thresholds</i> ;
	(3)	governance arrangements to be followed for adoption and continuing review of position limit setting, the risk assessment framework, <i>accountability thresholds</i> and market risk analysis, including allocation

			of senior management responsibility, policies for managing conflicts, systems and controls, and board oversight;
		(4)	the methodology for and setting of position limits and <i>accountability thresholds</i> , including the identification of <i>related contracts</i> , <i>related OTC contracts</i> and positions not eligible for netting;
		(5)	policies and procedures relating to:
		(a)	the granting of position limit exemptions for the position limits it sets, including the approach to the setting of <i>exemption ceilings</i> ; and
		(b)	position limit breaches including resolution and access to enforcement tools; and
		(6)	arrangements for the sharing of information with relevant <i>CCPs</i> .
1.3	G	When a <i>trading venue operator</i> notifies the <i>FCA</i> in accordance with <i>MAR TP 3.1.2R</i> , it should allow such time as is necessary for the <i>FCA</i> to consider and assess the relevant matters, prior to proposed implementation.	
	Additional reporting		
1.4	R	A <i>trading venue operator</i> must notify the <i>FCA</i> promptly when it decides to require additional reporting to that required by <i>MAR 10.4</i> , including in respect of <i>OTC positions</i> , to ensure the proper monitoring of risks to its markets and to protect orderly pricing and settlement conditions in relation to the <i>commodity derivatives</i> traded on its systems.	

Annex C

Amendments to the Decision Procedure and Penalties manual (DEPP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

2 Statutory notices and the allocation of decision making

...

2 Annex Supervisory notices

2

...

Markets in Financial Instruments Regulations 2017	Description	Handbook reference	Decision maker
...			
Regulation 28(4)	when the <i>FCA</i> is imposing a limitation, restriction or requirement under regulation 24 <u>28(4)</u>		<i>Executive procedures</i> (see <i>DEPP</i> 2.5.18G)
...			

...

Annex D

Amendments to the Recognised Investment Exchanges sourcebook (REC)

In this Annex, underlining indicates new text and striking through indicates deleted text.

2 Recognition requirements

2.1 Introduction

...

2.1.4 G Location of recognition requirements and guidance

Recognition Requirements Regulations	Subject	Section in REC 2/other parts of the <i>Handbook</i>
...		
Paragraphs 7BA & 7BB	Position management and position reporting re commodity derivatives	2.7A
...		

...

2.7A Position ~~management~~ and ~~position~~ reporting in relation to commodity derivatives

2.7A.1 UK

Paragraph 7BA – Position management <u>[deleted]</u>	
(1)	A [UK RIE] operating a trading venue which trades commodity derivatives must apply position management controls on that venue, which must at least enable the [UK RIE] to
	(a) monitor the open interest positions of persons;
	(b) access information, including all relevant documentation, from persons about

	(i)	the size and purpose of a position or exposure entered into;
	(ii)	any beneficial or underlying owners;
	(iii)	any concert arrangements; and
	(iv)	any related assets or liabilities in the underlying market;
	(e)	require a person to terminate or reduce a position on a temporary or permanent basis as the specific case may require and to unilaterally take appropriate action to ensure the termination or reduction if the person does not comply; and
	(d)	where appropriate, require a person to provide liquidity back into the market at an agreed price and volume on a temporary basis with the express intent of mitigating the effects of a large or dominant position.
(2)		The position management controls must take account of the nature and composition of market participants and of the use they make of the contracts submitted to trading and must –
	(a)	be transparent;
	(b)	be non-discriminatory; and
	(c)	specify how they apply to persons.
(3)		A [UK RIE] must inform the FCA of the details of the position management controls in relation to each trading venue it operates.
...		

...

Annex E

Amendments to the Enforcement Guide (EG)

In this Annex, striking through indicates deleted text.

19 Non-FSMA powers

...

19.34 Markets in Financial Instruments Regulations 2017

19.34.1 G The *MiFI Regulations* in part implemented *MiFID*. The *FCA* has investigative and enforcement powers in relation to both criminal and non-criminal breaches of the *MiFI Regulations* (including requirements imposed on persons subject to the *MiFI Regulations* by *MiFIR* and any *onshored regulation* which was an *EU regulation* made under *MiFIR* or *MiFID*). The *MiFI Regulations* impose requirements on:

- (1) *persons* holding positions in relevant contracts for commodity derivatives trading on *trading venues* ~~and for economically equivalent OTC contracts~~, whether or not the *persons* are authorised; and

...

...

Annex F

Amendments to the Perimeter Guidance manual (PERG)

In this Annex, underlining indicates new text and striking through indicates deleted text.

2 Authorisation and regulated activities

...

2.9 Regulated activities: exclusions applicable in certain circumstances

...

Persons seeking to use the exemption under Article 2.1(j) of the Markets in Financial Instruments Directive

2.9.30 G ...

...

~~In each case, a *person* seeking to rely on the article 2(1)(j) exemption must provide notice to the *FCA* in accordance with regulation 47 of the *MiFI Regulations*.~~

...

13 Guidance on the scope of the UK provisions which implemented MiFID

...

13.5 Exemptions from MiFID

...

Exemption for commodity derivatives business

...

Q44A. How do I know whether my main business is investment, banking or commodities?

When considering what is a group's 'main business' for the purpose of the requirement described in the answer to Q44 that your main business should not be investment services, banking services or commodity derivatives market making, in our view various factors are likely to be relevant including turnover, profit, capital employed, numbers of employees and time spent by employees. These factors should then be considered in the round in deciding whether any one operation or business line amounts to your group's main business.

The determination of your main business as described in this answer is not directly related to the test for deciding whether your commodities business is ancillary to your main business (the ancillary test is referred to in the answer to

Q45). This is because the ancillary test compares the size of your ~~commodities~~ commodity derivatives and emission allowance business (see guidance in *PERG* 13Q32 to 33C and 34A) with the rest of your business but does not specify how to identify what your main business is within your non-commodities business.

Q44B. Are there any formalities for using the commodities exemption?

It is a condition of the commodities exemption described in the answer to Q44 that you:

- ~~should notify annually the relevant competent authority that you make use of this exemption; and~~
- upon request, report to the competent authority the basis on which you consider that the requirement for the commodities business to be ancillary is met.

~~If you are a UK firm, the~~ The FCA is the relevant competent authority for these purposes.

If you carry out some occasional commodity derivatives activities you may not need to rely on this exemption. See the answer to Q7 (We provide investment services to our clients. How do we know whether we are an investment firm for the purposes of article 4.1(1) MiFID?) for more on this.

...