

FCA Publishes Update on UK Market Share Test for Ancillary Activities Exemption 2024-2025

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On 20 December 2023, the Financial Conduct Authority (**FCA**) published a statement (**Statement**) providing an update on the ancillary activities exemption (**AAE**) for commodity derivatives for 2024-2025.

The AAE enables firms carrying on investment services and activities relating to commodity derivatives and emission allowances on an “*ancillary*” basis to their main business to not be required to be authorised by the FCA. Firms seeking to rely on the AAE must perform, among other things, the market share test under the UK Commission Delegated Regulation (EU) 2017/592 (i.e., the UK MiFID RTS 20).

Following Brexit, the European Securities and Markets Authority no longer publishes the data that UK firms relied on to make calculations for such test. Despite this, the FCA explained in January 2023 (**January Update**) under what circumstances firms could rely on the AAE for 2023-2024.

Following HM Treasury’s decision to postpone the application of relevant changes to the ancillary activities test to 1 January 2025, the Statement confirmed that the FCA will continue to apply the approach it outlined in the January Update. Paragraph 7.6 of the FCA’s December 2023 consultation paper on reforming the commodity derivatives regulatory framework (**CP23/27**) also confirmed use of the approach detailed in the January Update. Further information regarding CP23/27 is available [here](#).

The Statement will therefore enable firms to continue using the AAE for 2024-2025 if they were able to rely on the exemption for 2022-2023 based on trading relating to the last previous published information (i.e., 2018-2020) on the overall size of the market. The FCA’s approach also maintains the additional flexibility for firms to have regard to their daily trading activity of the previous three years (i.e., 2021-2023) for the purposes of continuing to rely on the AAE.

The Statement and the January Update are available [here](#) and [here](#), respectively.

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