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FCA Publishes Policy Statement on UK’s Commodity Derivatives Regulatory Framework Reform

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On 5 February 2025, the UK Financial Conduct Authority (**FCA**) published a policy statement (**PS25/1**) setting out its response and final position in relation to reforming the UK’s commodity derivatives regulatory framework (**Framework**).

Background

The FCA consulted on the changes to the Framework in December 2023 (**CP23/27**), proposing key changes regarding commodity derivatives transactions in the UK. These proposals related to the shift in responsibility for setting position limits from the FCA to trading venues, enhanced position management controls and monitoring, a narrower application of position limits to only certain commodity derivatives contracts, and available exemptions, including the potential removal of the ancillary activities test.

CP23/27 formed part of the UK’s Wholesale Markets Review, enacted by the Financial Services and Markets Act 2023 and was intended to be a review of the UK’s secondary market structure which the FCA has been conducting with HM Treasury (**HMT**).

Further details on CP23/27 can be found in our previous article (available here).

Reforms to the Framework

In PS25/1, the FCA has amended the following proposals in CP23/27:

1. **Trading Venue Position Limits**. Trading venues will continue to set position limits with minor technical changes implemented by the FCA. Position limits in both ‘*spot months*’ and ‘*other months*’ will now be required.
2. **Exemptions**. After concerns were raised regarding trading venues granting hedging exemptions only when satisfied that such positions can be reasonably managed, the FCA

amended the risk management control to be less prescriptive – trading venues will be expected to assess their own indicators as to whether such positions can be liquidated in an orderly way.

3. **Position Reporting**. Trading venues must have the power to obtain over-the-counter (**OTC**) position data, however, in relation to the circumstances when such reporting is required, trading venues are expected to consider the risk that positions in OTC markets pose to their markets and satisfying the FCA that their powers are used appropriately. The FCA is also awaiting a further broadening of powers from a legislative standpoint by HMT to provide directions in relation to OTC position reporting.
4. **Ancillary Activities Exemption (AAE)**. PS25/1 confirms that the FCA's earlier proposals relating to AAE, including the issuance of guidance on its application, will not be implemented. Instead, the AAE quantitative test and RTS 20 will continue to operate until at least 2027 as the FCA considers a permanent solution.

UK vs EU Reforms

The UK is treading a fine line in diverging from the EU, and the AAE changes no longer being implemented will mean the UK's opportunity for more significant divergence has passed for now, until a permanent solution is brought forward.

However, the passing of position limits responsibilities from the FCA to trading venues compared to the EU's approach where they are set by the relevant national competent authorities reinforces the UK's principles-based approach.

The UK and EU appear to be aligned on fundamental principles in relation to commodities derivatives, especially on agricultural contract position limits still applying and positions held to meet liquidity obligations. The slight deviation in the UK will give its market participants somewhat of a competitive advantage by being able to take higher risk positions.

The UK Chancellor, Rachel Reeves, continues to apply pressure on the FCA to prioritise growth. The FCA must therefore balance its approach to commodity derivatives regulation between maintaining the UK's competitiveness in the global market while minimising disruption to market participants through divergence from EU rules.

Next Steps

The rules set out in PS25/1 will come into force on different dates, with the last such date being 6 July 2026. Rules enabling trading venues to receive and process applications for exemptions from position limits will commence from 3 March 2025. Hedging exemptions granted under the current regime will continue to apply until 5 July 2026. Lastly, transitional provisions relating to trading venues will commence on 3 March 2025 to allow notification to the FCA of various arrangements prior to implementation.

PS25/1 is available here.

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