



I. ACTIVE PRIORITIES

Brexit		
CMCE priorities: Ancillary activity test, access to UK and EU trading venues, CCPs and TRs		
Status / latest developments	Next steps	CMCE action
<p>As a result of the European Council summit which took place on 21-22 March, in their conclusions, leaders of the EU27 offered the UK an extension of art.50 to 22 May if the House of Commons approved the Withdrawal Agreement. Leaders only agreed to a shorter delay until 12 April failing approval of the Agreement, which would still allow the UK to take part in the May European elections. This afternoon, a third vote in the House of Commons rejected the Agreement negotiated by Theresa May, making 12 April the new default exit date, unless a request for another extension or revocation of Article 50 is made and approved by the EU27. Another series of 'indicative votes' is expected to take place in the House of Commons next week, in an effort to find majority support on a way forward.</p> <p><u>French contingency measures for no-deal Brexit</u></p> <p>As a part of the planning for a no-deal Brexit in France, a law was passed in late January to authorise the French government to pass emergency legislation. As a part of this initiative, a French ordinance on financial services was published in the French Official Journal on 7 February 2019 which was adopted based on article 2 of the law adopted in January.</p> <p>One of the measures included in the ordinance would make 2 modifications to French law to enable the smooth functioning of the ISDA master agreement. The aim is to allow firms to adopt an ISDA master agreement under French law which would present the same properties as the master agreement under English law. It creates a mechanism for the substitution of master agreements used for the provision of financial services. A proposal of a new master agreement will be deemed accepted insofar as the new master agreement is identical to the initial master agreement, which is subject to the use of French law and competence of French jurisdictions. When a master agreement is replicated into French law it will not include the back-book derivative contracts that have been executed under the English law master</p>	<p>12 April – Possible new exit date and deadline for the UK to provide a way forward to EU27, if third vote on Withdrawal agreement fails</p> <p>22 May – New exit date if Withdrawal agreement is approved by House of Commons</p>	

<p>agreement prior to Brexit. Lifecycle events under existing English law master agreements can still be performed after Brexit if they are part of the execution of an existing contract. They cannot be performed after the exit if they are constitutive of a new contract.</p> <p><u>FCA Benchmarks register in the event of no-deal</u> On 22 March the FCA made a statement on the establishment of a UK register of benchmarks after Brexit in the event that the UK leaves without an agreement. The register will replace the ESMA register for UK supervised users as well as UK and third-country benchmark administrators that want their benchmarks to be used in the UK. On the day the UK leaves, the FCA would temporarily copy information from the ESMA register of benchmarks which will remain in the FCA register for a period of 2 years unless any benchmark is removed on the basis of the UK BMR.</p> <p><u>CFTC</u> On 25 March, the CFTC approved an interim final rule (IFR) on the margin required for uncleared swaps for swap dealers and major swap participants in the event of a no-deal Brexit so that certain uncleared swaps can be moved out of the UK. Commissioner Berkowitz stated that the aim of the rule would be “to maintain the legacy status of swaps that were executed prior to the relevant compliance dates for the CFTC swap margin rule if those swaps are legally transferred solely as a result of a no-deal Brexit. The transfer of these swaps to affiliates outside the UK would be needed so that the swaps can continue to be properly serviced under EU law.”</p>		
MiFID II		
<i>CMCE priorities: AA exemption, position limits, reporting, physical forwards</i>		
Status / latest developments	CMCE action	
<p><u>Reports by ESMA under MiFID II/MiFIR</u> On 27 March, ESMA published a short letter to the Commission which was sent in January 2019 in order to formalise an agreement with the Commission on the delay in the timetable of certain reports that ESMA and the Commission are required to produce under MiFID II/ MiFIR. ESMA asked to delay the delivery of its inputs into review reports by the Commission under MiFID II/MiFIR by 6-24 months, with the delay mainly ascribed to uncertainty around the impact of Brexit. According to the letter, these delays had been informally agreed upon between staff at ESMA and the Commission.</p> <p>The report mandated by art.90(4) of MiFID II assessing the impact, feasibility and direct costs of making C6 energy derivatives contracts subject to the clearing obligation would have in terms of the benefits of reducing counterparty and systemic risks, and their inclusion in calculating the clearing threshold as</p>		

well as the potential impact on energy prices and the functioning of the energy market was originally due 1 January 2019; ESMA has a new deadline for its input by January 2020.

The report on the impact of the application of **position limits** and position management on liquidity, market abuse, orderly pricing and settlement conditions in commodity derivative markets under art.90(1)f has been delayed by 6 months from the original deadline of March 2020 for publication by the Commission. ESMA now has until March 2020 to submit its contribution to the Commission.

The report on the **derivatives trading obligation** under art.52(6) MiFIR has been delayed by 10 months. ESMA has a new deadline for sending its contribution to the Commission by July 2020. The original Commission deadline to publish this report was March 2020.

Q&A on ancillary activity test

On 27 March, ESMA updated its [Q&A](#) on MiFID Commodities Derivatives topics to modify question 6 and add a new question 14.

ESMA modified question 6 on the **deadline for when a firm need to notify the NCA of its intention to make use of the AA exemption**.

The modified answer **now** is that AA notifications need to be made annually by April 1 of the year for which the exemption applies. Any firm that has not applied for authorisation has to notify. The answer **previously** was that the first of such notifications needed to be made by 3 January 2018 and subsequent years, the notification needs to be made by April 1.

ESMA also added a question 14 on **whether a third-country firm (or a third-country subsidiary of an EU firm) dealing on an EU trading venue in commodity derivatives or emission allowances or derivatives thereof is in scope of the Ancillary Activity test** as per RTS 20. ESMA responded that no, a third-country firm (or a third-country subsidiary of an EU firm) dealing on an EU trading venue in commodity derivatives or emission allowances or derivatives thereof is not in scope of the ancillary activity test as per RTS 20. Consequently, such third-country firm (or third-country subsidiary of an EU firm) does not have to notify any EU competent authority or ESMA that it makes use of the ancillary activity exemption.

Position limits

On 22 March ESMA [published](#) opinions on commodity derivatives contracts, all of which they deem to be consistent with the methodology and aims of art. 57 of MiFID II and RTS 21. These include [ICE Endex Italian PSV gas](#), [Powernext Italian PSV gas futures](#), [Powernext CEGH-VTP natural gas contracts](#), [Powernext GPL natural gas contracts](#), [Powernext NCG natural gas](#), [Powernext PEG natural gas contracts](#), and [EEX PXE Hungarian Power Baseload future contracts](#).

EMIR REFIT

CMCE priorities: reporting, risk mitigation for uncleared trades, calculation of NFC's positions

Status / latest developments	Next steps	CMCE action
<p>The ECON Committee of the European Parliament approved the deal on EMIR Refit during a Committee meeting on 21 March. The European Parliament plenary is expected to give its approval during the last plenary session during the week commencing 15 April. It will also be approved formally by the Council at Ministerial level before it is published in the Official Journal.</p> <p>ESMA published guidance to firms on 28 March indicating that there is no transitional regime for EMIR Refit so it will apply from when it enters into force, which may be as early as May 2019.</p> <p>The guidance also notes the difference between the calculation against the clearing threshold between financial and non-financial counterparties, given that NFCs only need to include the OTC derivative contracts which are not objectively measurable as reducing risks, whereas FCs need to include all OTC derivative contracts they enter into or novate, in accordance with Art.4a(3) and Article 10(3) respectively.</p>	<p>18 April – Plenary vote on EMIR Refit</p> <p>May 2019 – Possible entry into force of EMIR Refit</p>	

Benchmarks

CMCE priorities: commodity benchmarks, critical benchmarks, third-country equivalence

Status / latest developments	Next steps	CMCE action
<p><u>Low-carbon benchmarks</u></p> <p>On 26 March, the European Parliament adopted the trilogue agreement on low-carbon benchmarks in plenary at first reading. The text will need to be formally approved by the Council at Ministerial level before it is published in the Official Journal. However, the text is not expected to be published in the EU Official Journal until after the summer due to a so-called corrigendum procedure given the Parliamentary recess due to the European elections. The Regulation will enter into force the day after publication in the Official Journal. Benchmarks administrators providing Climate Transition or Paris-aligned benchmarks have to comply with the regulation by 30 April 2020.</p> <p><u>ESAs review</u></p>	<p>June 2019 – Commission Expert Group on Sustainable Finance to publish report on carbon benchmarks</p> <p>Second half 2019 – Publication and entry into force of low-carbon benchmarks amendment to BMR</p>	

A political deal was reached in trilogues on 21 March. Technical work has been ongoing, and the Romanian presidency has been verifying the text with member states before submitting it to be approved by member states ambassadors and the European Parliament.		
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II. WATCHING BRIEF

IFR		
<i>CMCE priorities: commodity dealer IF regime, scope of class I, changes to MiFID II/MiFIR third-country regime</i>		
Status / latest developments		Next steps
Coreper formally approved the agreement on the IFR on 20 March following a silence procedure. The vote in the plenary of the European Parliament on the text of IFR/IFD is expected to take place in the week commencing 15 April. However, a delay is expected in terms of the publication of the text in the Official Journal, which will only occur in the second half of the year given a so-called corrigendum procedure whereby a technically and linguistically finalised version of the texts will be issued only in the autumn for formal signature by the new European Parliament and the Council, before the texts can be published in the Official Journal.		16 April – Plenary vote on the IFR Second half 2019 – Publication and entry into force
MAR		
<i>CMCE priorities: Insider dealing, MM indicators</i>		
Status / latest developments		Next steps
There were no significant developments in the last two weeks.		
SFTR		

CMCE priorities: reporting obligations

Status / latest developments

On 22 March, the SFTR level 2 standards [were published](#) in the EU Official Journal and will enter into force on 10 April. The reporting requirements will apply at different times for various counterparties, but for NFCs, the application date is set at 21 months after the date of entry into force of the delegated act adopted by the Commission pursuant to Article 4(9).

Next steps

10 April - Entry into force of the SFTR level 2 measures

Other relevant developments

International role of the euro

There were no significant developments in the last two weeks.

31 March – Close of consultation on the role of the euro in the field of energy

End of March – Close of consultation on role of euro and liquidity in FX markets