



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>After Prime Minister Theresa May asked for an extension to the art.50 negotiating period on 5 April, a special European Council Summit was organised. During the summit which took place on 10 April, the EU27 agreed to grant the UK a flexible extension with the exit date to 31 October, with the option to leave the EU within that period as soon as the Withdrawal Agreement is ratified. The UK Government has agreed to this, which was confirmed in a letter from the UK ambassador to the EU, Sir Tim Barrow to European Council President Donald Tusk on 11 April.</p> <p>The new exit date, October 31 is the result of a compromise reached between the EU27 as some member states (notably France) were in favour of a shorter extension while others wanted to grant a longer one. 31 October is the final day of the current College of Commissioners' term in office. Leaving on this date would mean that a UK Commissioner would not need to be appointed and subsequently removed from their position. However, the new date, is not necessarily a hard deadline as it could again be extended, probably as far as the end of March 2020, after which EU leaders will meet to finalise the 2021-2027 EU Multi-Annual Financial Framework (budget framework).</p> <p>The European Council conclusions reiterate that the Withdrawal Agreement will not be reopened and that the UK can only use the extension to find a parliamentary majority for this deal. The extension period cannot be used to start negotiations between the EU and the UK on the future relationship. The conclusions also state that if the UK is still a member of the EU on 23-26 May 2019 and if it has not ratified the Withdrawal Agreement by 22 May 2019, it must organise elections to the European Parliament. If the UK fails to live up to this obligation, the UK will leave the EU without a deal on 1 June 2019.</p>	<p>23 – 26 May - European Parliament elections</p> <p>1 June – UK to leave the EU without a deal if they do not organise European Parliament elections in the UK</p> <p>20/21 June – European Council summit to discuss progress on Withdrawal Agreement in the UK</p> <p>31 October - Deadline for UK to adopt Withdrawal Agreement, subject to a further extension</p>	

MiFID II

CMCE priorities: AA exemption, position limits, reporting, physical forwards

Status / latest developments

ESMA Q&A on commodity derivatives

ESMA published an updated [Q&A](#) on commodity derivatives topics on 27 March to add a question on whether third-country firms (or a third-country subsidiary of an EU firm) dealing on an EU trading venue in commodity derivatives or emission allowances or derivatives thereof are in scope of the Ancillary Activity test as per RTS 20. ESMA's response indicates that such third-country firms are not in scope of the ancillary activity test as per RTS 20; and consequently do not have to notify an EU competent authority or ESMA that they make use of the ancillary activity exemption.

While the new Q&A indicates that a third country firm dealing on commodity derivatives on an EU trading venue could benefit from the ancillary exemption without notifying its use of the exemption to relevant NCAs, it is important to note that under MiFID II it is the competence of member states to define the territorial scope of application of requirements to firms undertaking trading activities (without providing services) in the EU. Third-country firms would therefore need to refer to the local law in member states where they conduct trading activities to ascertain whether (1) they are in scope of MiFID II and need a licence in that member state and (2) whether exemptions are provided.

Based on a discussion with the AMF, the French regulator's view is that the intention of the Q&A is to clarify that third country firms do not need to notify that they are using the ancillary activity exemption, and that this should apply for activities of third country firms in the EU, both for trading on trading venues and for OTC transactions. It was indicated that the reason the Q&A was included is that both ESMA and NCAs have received numerous notifications from third country firms who are mainly undertaking transactions on trading venues in the EU; and that this would explain the explicit reference in the Q&A to activities "on an EU trading venue".

The AMF noted that if a third country firm asks an EU NCA for a hedging exemption for the purposes of the position limits regime, the NCA could at that moment on an ad hoc basis request for information on the ancillary activity calculation, or trust another type of notification, in order to ascertain that the third country firm would not be considered an investment firm if it were established in the EU. They also stressed that for EU firms, the deadline for making the notifications to NCAs was 1 April.

CMCE action

Following a discussion on the CMCE regular members' call on the recent ESMA Q&A on the ancillary activity notification and third country firms, the advisory team reached out to the AMF for a clarification on the context of the new Q&A and the application of the notification requirement to OTC activities of third country firms in Europe.

Derivatives trading obligation

On 4 April, ESMA updated the [list](#) of derivatives which have to be traded on venue following the addition of a Dutch trading venue and the equivalence [decision](#) adopted by the European Commission for Singaporean venues.

EMIR REFIT

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

Status / latest developments	Next steps	CMCE action
There were no significant developments in the last 2 weeks.	18 April – Plenary vote on EMIR Refit May 2019 – Possible entry into force of EMIR Refit	

Benchmarks

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

Status / latest developments	Next steps	CMCE action
<u>ESAs review</u> On 1 April, the ECON Committee adopted the trilogue agreement on the ESAs review with 28 votes in favour, 4 abstentions and 1 against. It will be adopted by the European Parliament plenary next week on 16 April.	16 April – Plenary vote on ESAs review June 2019 – Commission Expert Group on Sustainable Finance to publish report on carbon benchmarks Second half 2019 – Publication and entry into force of low-carbon benchmarks amendment to BMR	

II. WATCHING BRIEF

IFR	
CMCE priorities: commodity dealer IF regime, scope of class I, changes to MiFID II/MiFIR third-country regime	
Status / latest developments	Next steps
The ECON Committee adopted the trilogue agreement on the IFR on 1 April. It will be adopted by the European Parliament plenary next week on 16 April.	16 April – Plenary vote on the IFR Second half 2019 – Publication and entry into force
MAR	
CMCE priorities: Insider dealing, MM indicators	
Status / latest developments	Next steps
On 29 March, ESMA updated its MAR Q&A to add 4 new questions, 2 of which are relevant for emission allowance market participants (EAMPs). The first one (Q11.2) is on the meaning of 'parent' and 'related undertaking' in Article 17(2) of MAR. The second one, (Q11.3) asks whether EAMPs are under the obligation to disclose inside information concerning emission allowances where such inside information regards installations of other undertakings of the group of the EAMP.	
SFTR	
CMCE priorities: reporting obligations	
Status / latest developments	Next steps

On 10 April the SFTR [level 2 standards](#) were published in the Official Journal. 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).

Other relevant developments

International role of the euro

There were no significant developments in the last two weeks. The consultations on the international role of the euro closed and the Commission is expected to report on the results during the summer.