



CMCE – Energy Traders Europe - FIA - ISDA response to the FCA’s Quarterly Consultation CP26/8 No 51 on Increasing the clearing threshold for commodity derivatives under UK EMIR.

9 April 2026

Opening remarks

The Commodity Markets Council Europe (CMCE), Energy Traders Europe, the Futures Industry Association (FIA), the International Swaps and Derivatives Association (ISDA), and their members welcome the opportunity to respond to the FCA’s Quarterly Consultation CP26/8 No 51 on increasing the clearing threshold for commodity derivatives under UK EMIR.

We strongly support the FCA’s proposal to increase the clearing threshold and consider this an important and necessary step to improve the functioning, liquidity and international competitiveness of UK commodity derivatives markets.

Commodity derivatives markets sit at the heart of the real economy. They enable energy producers, manufacturers, refiners, and industrial firms to manage price risk, secure supply, and support investment decisions. As the UK seeks to strengthen growth and reinforce its position as a globally competitive wholesale markets hub, it is essential that regulatory frameworks remain proportionate, risk-based, and reflective of current market realities.

The EMIR clearing threshold plays a pivotal role in achieving this balance. It must appropriately distinguish between systemically significant financial actors and others.

Market context and structural developments

It has been evident for a long time that the clearing threshold for the commodity derivative asset class, which has not been reviewed since it was first implemented over a decade ago, has increasingly been acting as a barrier to growth for UK firms in this sector. This is because structural developments and market conditions have changed since the clearing threshold was originally set, meaning that in real terms, it has shrunk considerably, making it disproportionate to EMIR’s original policy intent.

Firstly, inflation, sustained increases in commodity prices and heightened volatility during uncertain times, such as in 2022 and indeed the present day, have fundamentally altered market dynamics.

Secondly, the scope of transactions included within the commodity derivatives threshold has broadened significantly since it was first calibrated. This expansion includes, for example, emission allowances (European Union Allowances (EUAs) and United Kingdom Allowances (UKAs)), increased activity on non-UK exchanges, and the growth of long-term contracts such as virtual power purchase agreements to support renewable energy investment. Despite these shifts, the clearing threshold framework has not been updated to reflect the new realities.

It is noteworthy that non-financial counterparties typically structure their trading activity to ensure they remain under the clearing threshold to avoid the additional costs and associated liquidity constraints, from margin requirements. This means that firms must anticipate the risk of sharp price rises and address it in advance, which invariably requires firms to maintain a buffer between their internal thresholds and those set under EMIR. The greater the volatility risk, the higher the buffer needs to be.

In practice, firms allocate internal limits to group entities that conduct in-scope derivative transactions within the same EMIR asset class and monitor utilisation against those limits, with alerts triggered as activity approaches predefined thresholds. This allows firms to take action where necessary, including restricting activity to avoid breaching internal caps.

As a result, internal group-wide limits are typically set well below the clearing threshold, often materially so, to allow sufficient time to respond to market movements. This further reduces the effective available clearing threshold.

Competitiveness and market impact

The UK has introduced a growth and international competitiveness objective for the FCA. The current EUR 3bn clearing threshold does not support this objective. By constraining firms' ability from starting up or expanding their trading activities in the UK, it reduces liquidity and increases costs and risks for firms using the UK commodity derivatives markets. This is particularly relevant in the context of evolving regulatory approaches in other jurisdictions, including recent developments under EU EMIR 3, which aim to better reflect the realities of commodity derivatives markets. Exceeding the clearing threshold will also trigger bilateral margin requirements across all asset classes, including in relation to risk management activity, further reducing the attractiveness of UK markets and incentivising firms to transact in other jurisdictions.

Further, non-UK companies may be reluctant to consider UK banks as bilateral trading counterparties to derivative transactions, as this would require them to assess their classification under UK EMIR on a group-wide basis, in contrast to the EU approach of the threshold applying at entity level. This exacerbates the impact of the existing EUR 3bn UK

threshold, and even at the proposed EUR 5bn threshold would create additional complexity and provide further discouragement to non-UK firms from engaging with UK counterparties.

Finally, raising the clearing threshold immediately is an important corrective measure. However, further consideration will be needed in due course to ensure that the overall framework remains appropriately calibrated to current market conditions and continues to support both financial stability and growth.

Question 7.1: Do you agree with our proposal to raise the clearing threshold for commodity derivatives to EUR5bn?

Answer

CMCE, Energy Traders Europe, FIA and ISDA strongly support the proposal to substantially raise the clearing threshold for commodity derivatives. However, we consider that a clearing threshold of at least EUR6bn is necessary to ensure the regime is risk-based, proportionate, and aligned with current market realities.

It is also critical that any increase is implemented ahead of the next annual calculation period in June 2026 to allow firms to benefit from the revised threshold without delay.

Commodity derivatives markets are structurally different from financial derivatives markets. Positions are predominantly linked to physical production, inventory management, and commercial optimisation. Firms across the supply chain participate in these markets to manage and optimise assets and inventories in ways that ultimately benefit end-consumers and provide essential liquidity to markets.

As referred in our introductory statement, it is also important to recognise that the clearing threshold was originally calibrated over a decade ago. In nominal terms, EUR 3bn, and indeed EUR 5bn, does not represent the same economic scale as it did 12 years ago. Commodity prices, inflation levels, and the size of physical markets have all increased materially since the original framework was established. We also note that UKAs and EUAs are relatively new asset classes that now count towards the clearing threshold and represent a significant level of activity.

Commodity markets and their prices rely on supply and demand and are subject to high volatility, whether driven by geopolitical events, weather events, or other external shocks. The clearing threshold should not operate to restrict access to markets for firms at precisely the moments when they most need to manage risk.

Recent years have underlined the importance of considering volatility in the calibration of the clearing threshold. There have been sustained periods of high volatility in which prices

have risen significantly above long-term trends. In such conditions, a threshold set too low risks creating procyclical effects, bringing firms closer to the clearing threshold due to price movements rather than underlying changes in activity.

The 2021–2022 energy crisis demonstrated how extreme price volatility can significantly increase gross notional exposures, particularly for price-indexed contracts or when entering new contracts at elevated prices. More recently, geopolitical developments have continued to contribute to uncertainty in energy and commodity markets. In such an environment, thresholds that are not appropriately calibrated risk constraining participation and reducing market liquidity.

This uncertainty has broader implications for growth and competitiveness. Commodity markets play a critical role in supporting the real economy. If firms are required to allocate additional liquidity and collateral as a result of threshold breaches driven by volatility, this may divert capital away from productive investment and working capital needs.

While we support a substantial increase in the clearing threshold, we do not consider that an increase to EUR5bn fully addresses current market conditions. A clearing threshold of at least EUR6bn, as a transitional measure pending further review, would:

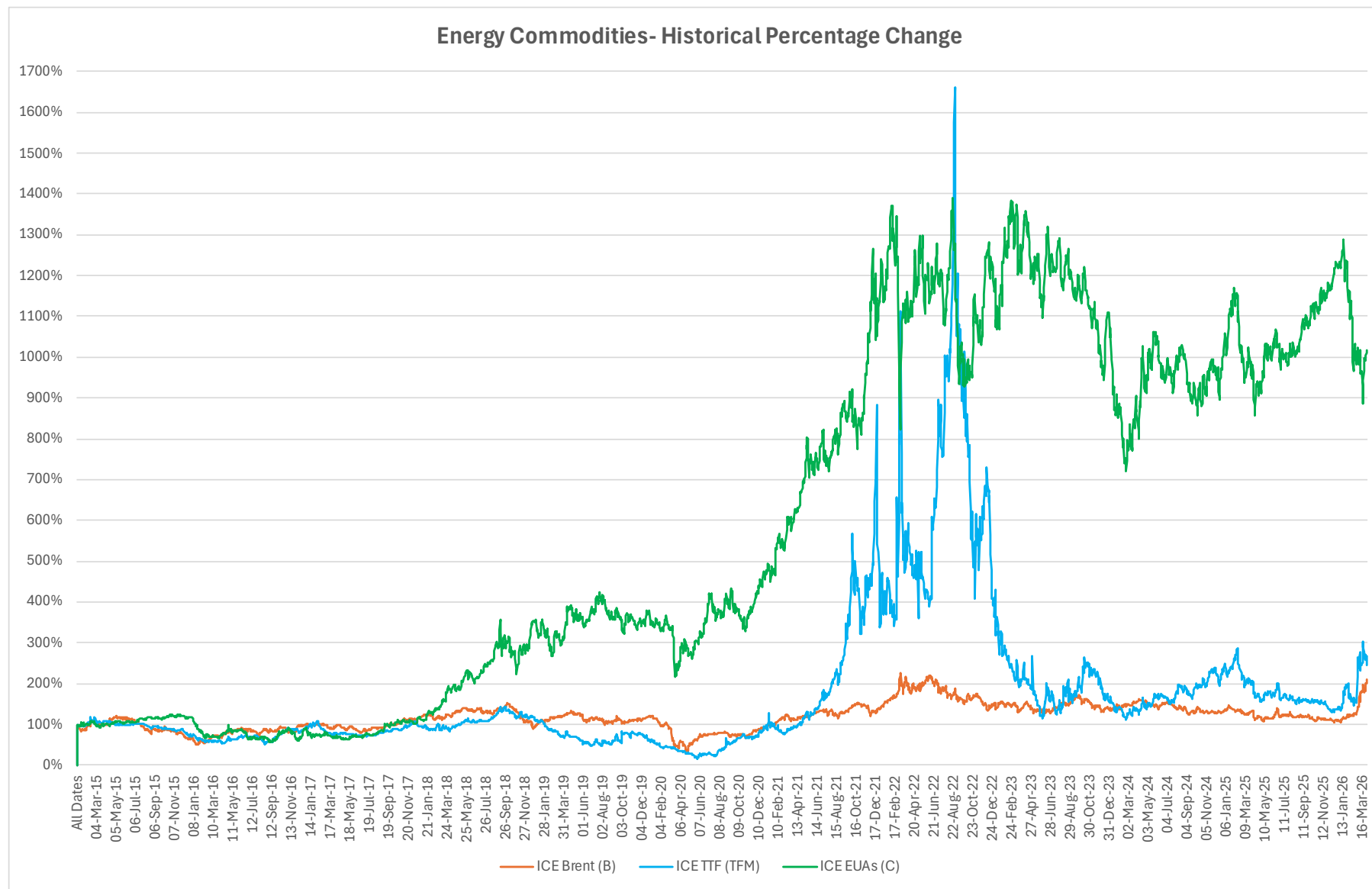
- Provide a more effective buffer against volatility-driven notional increases;
- Reduce the risk of cliff-edge effects and regulatory uncertainty;
- Better reflect inflation and structural growth in commodity markets; and
- Support growth, investment, and the international competitiveness of UK commodity markets, without compromising financial stability objectives.

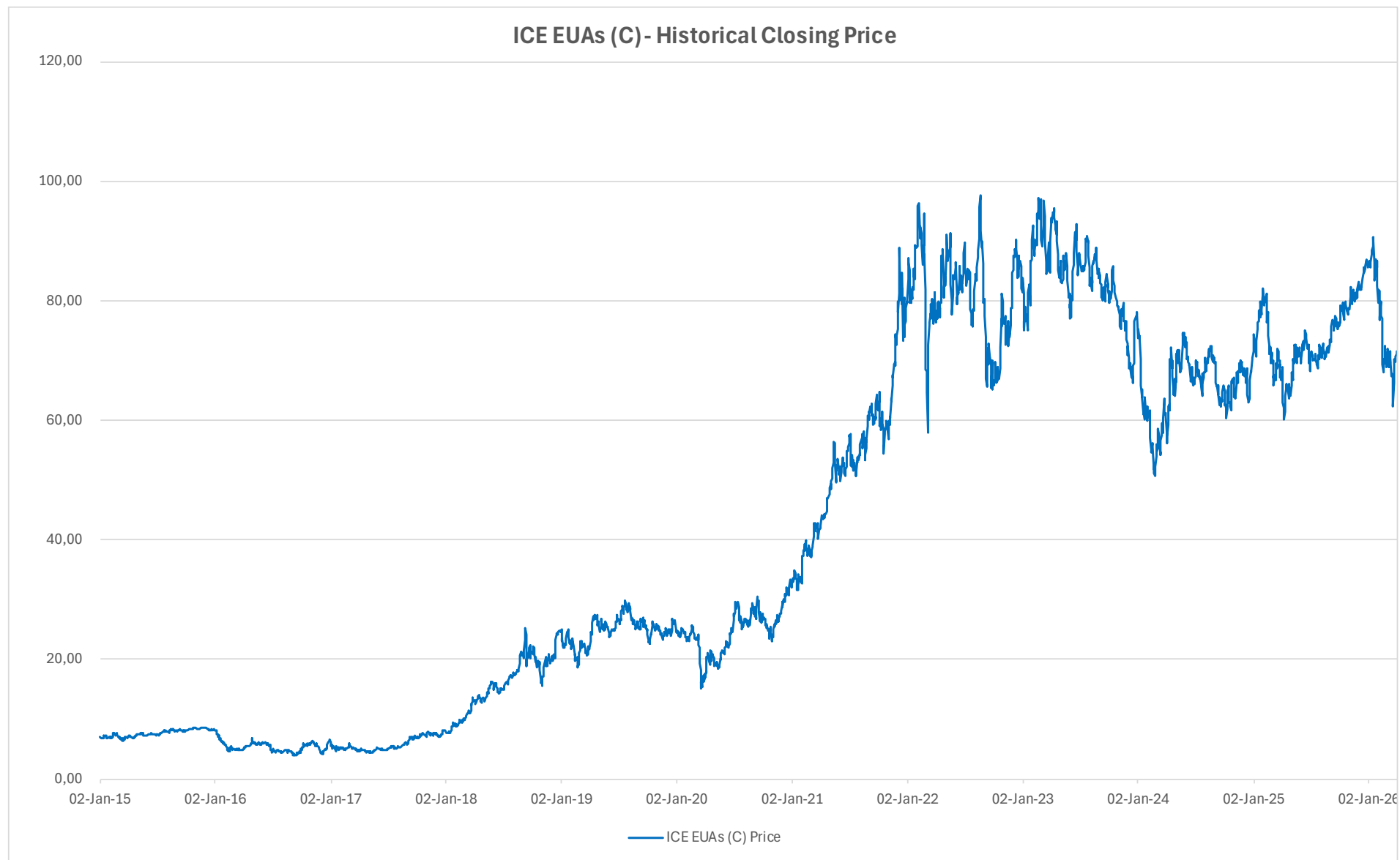
Given ongoing market uncertainty, we would also support providing the FCA with flexibility to further adjust the threshold if necessary.

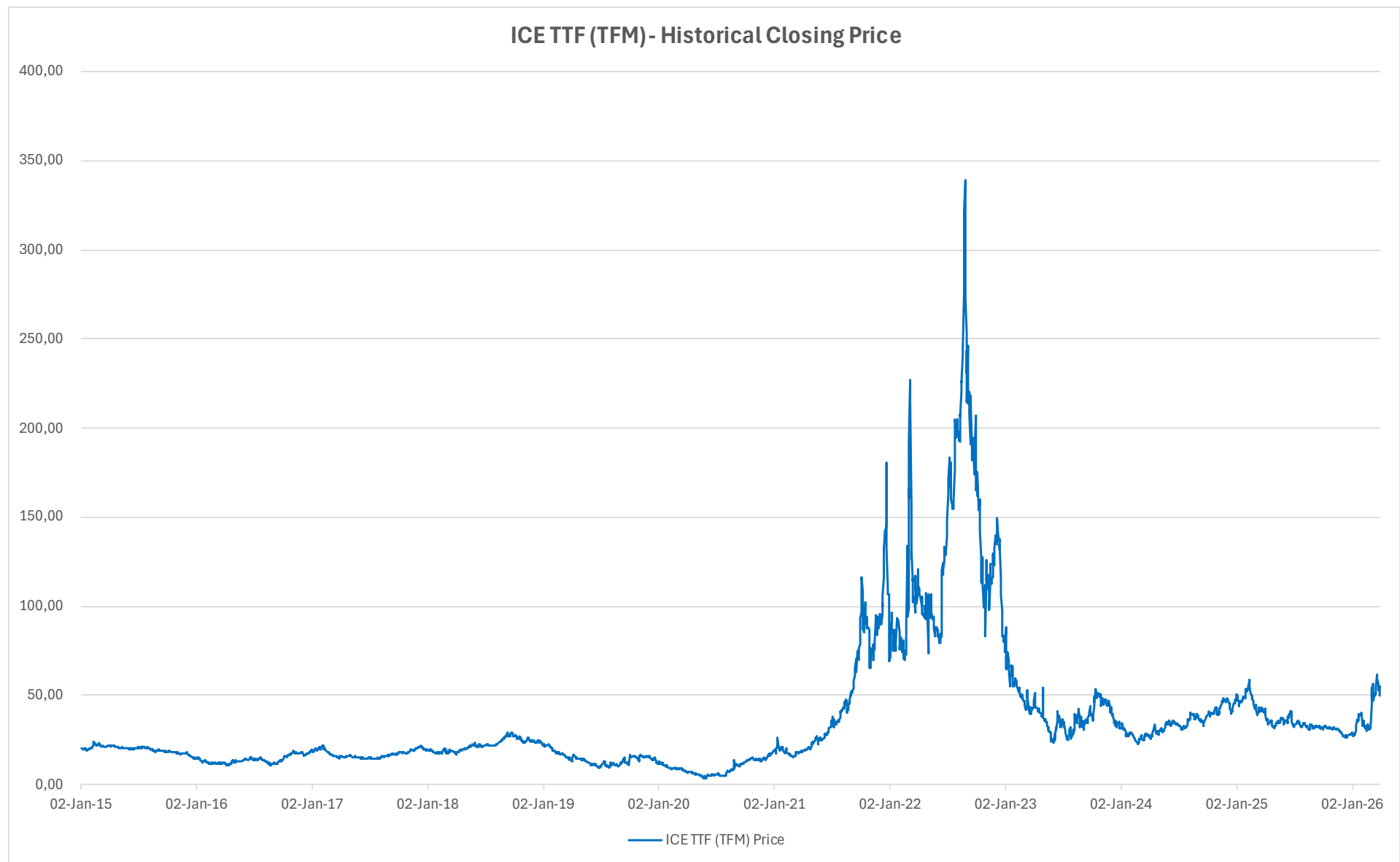
We encourage HM Treasury and the FCA to commit to a future review of the clearing threshold framework to ensure that it remains appropriately calibrated and continues to reflect developments in commodity markets over time.

For the reasons set out above, we support the FCA's proposal to increase the clearing threshold but consider that a clearing threshold level of at least EUR 6bn is required. To ensure effectiveness, the revised threshold should be implemented by June 2026 at the latest.

Below, we collected price developments and volatility spikes in key commodity contracts between 2015 and 2026, which demonstrate the need to at least double the current threshold.









Metals Commodities- Historical Percentage Change

