

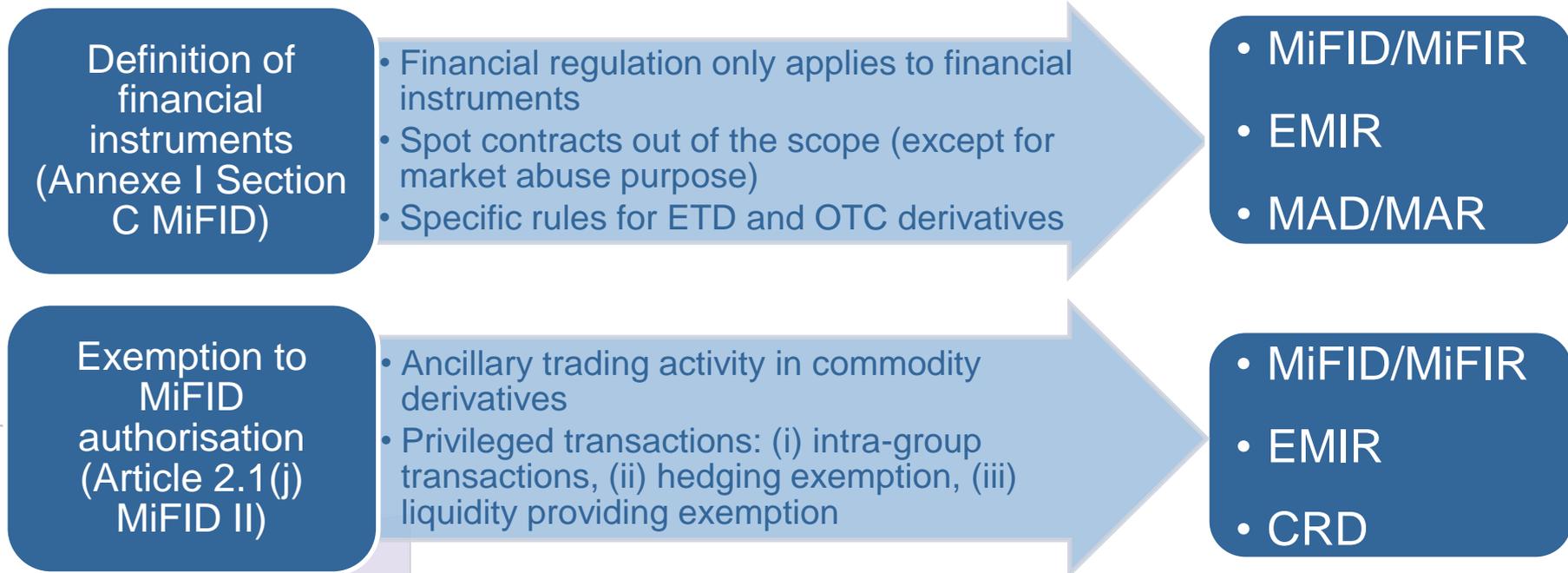
Expert Group on agricultural commodity derivatives and spot markets

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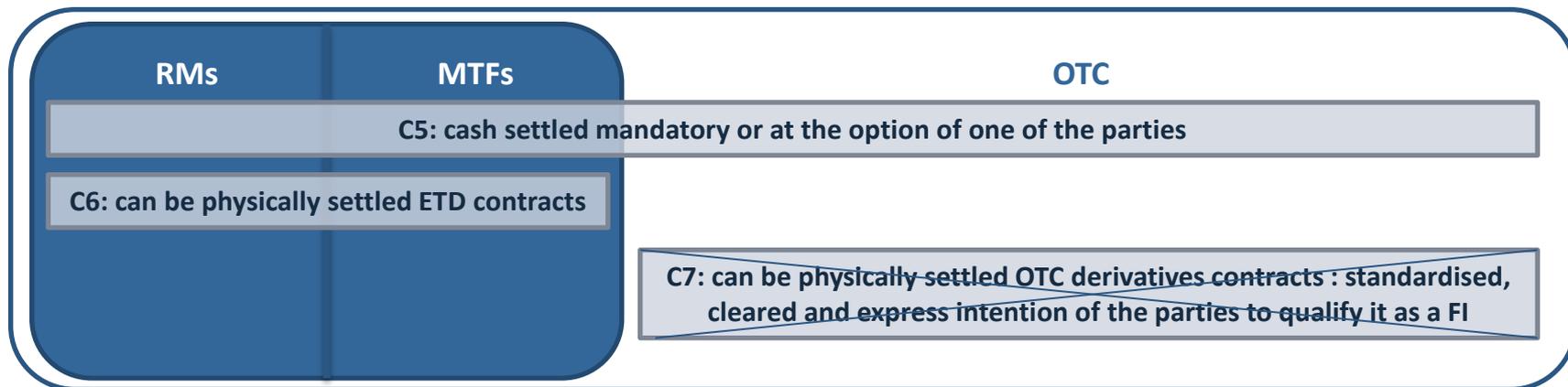
1. Scope of Financial Regulation

Financial regulation scope for commodity trading mainly derives from MiFID scope and does not distinguish energy contracts from other commodity contracts (metals, agricultural products and others)

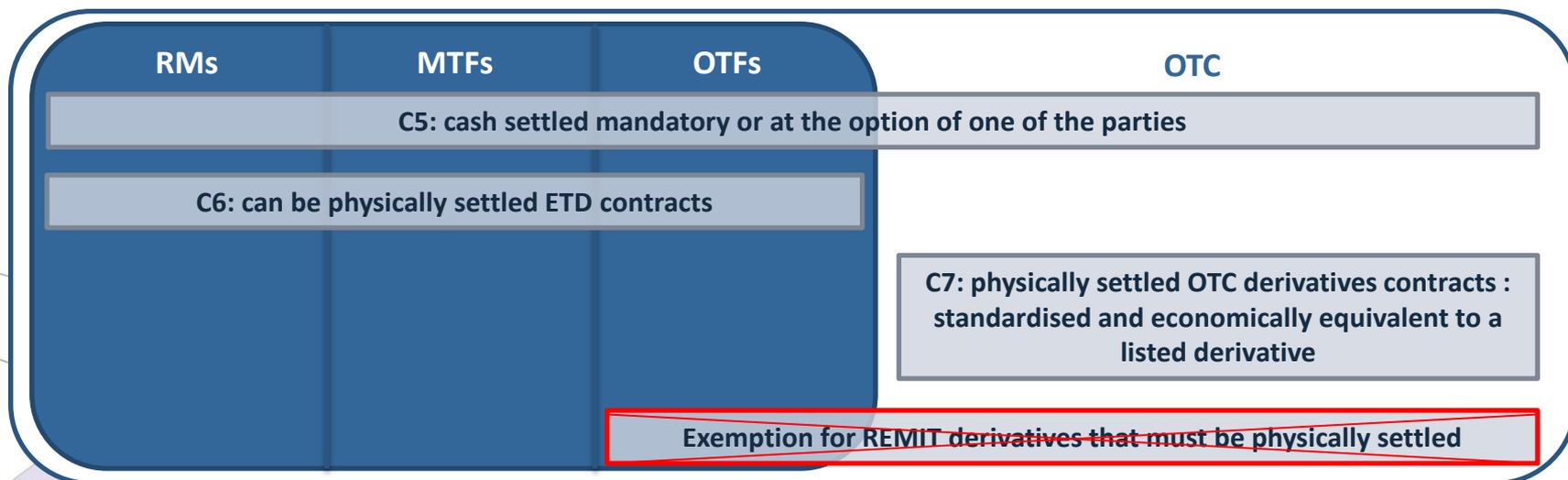


2. Financial Instruments Definitions – C5, C6 and C7

MiFID I



MiFID II



3. Ancillary activity exemption (1)

Main orientations in ESMA's RTS:

1. Two independent tests – (i) market share and (ii) main business test

2. Hedging, intragroup and liquidity providing activities are not taken into account in the calculus (privileged transactions)

3. Activities are to be understood at EU level only

4. Trade repositories data will be used for the calibration of the thresholds

3. Ancillary activity exemption (2)

Exemption of Art. 2(1)(j) MiFID II: “*dealing on own account in commodity derivatives/ emission allowances and derivatives thereof, or providing investment services in such instruments to customers / suppliers providing the activity is ancillary to their main business*”

1st test – Market share per commodity category

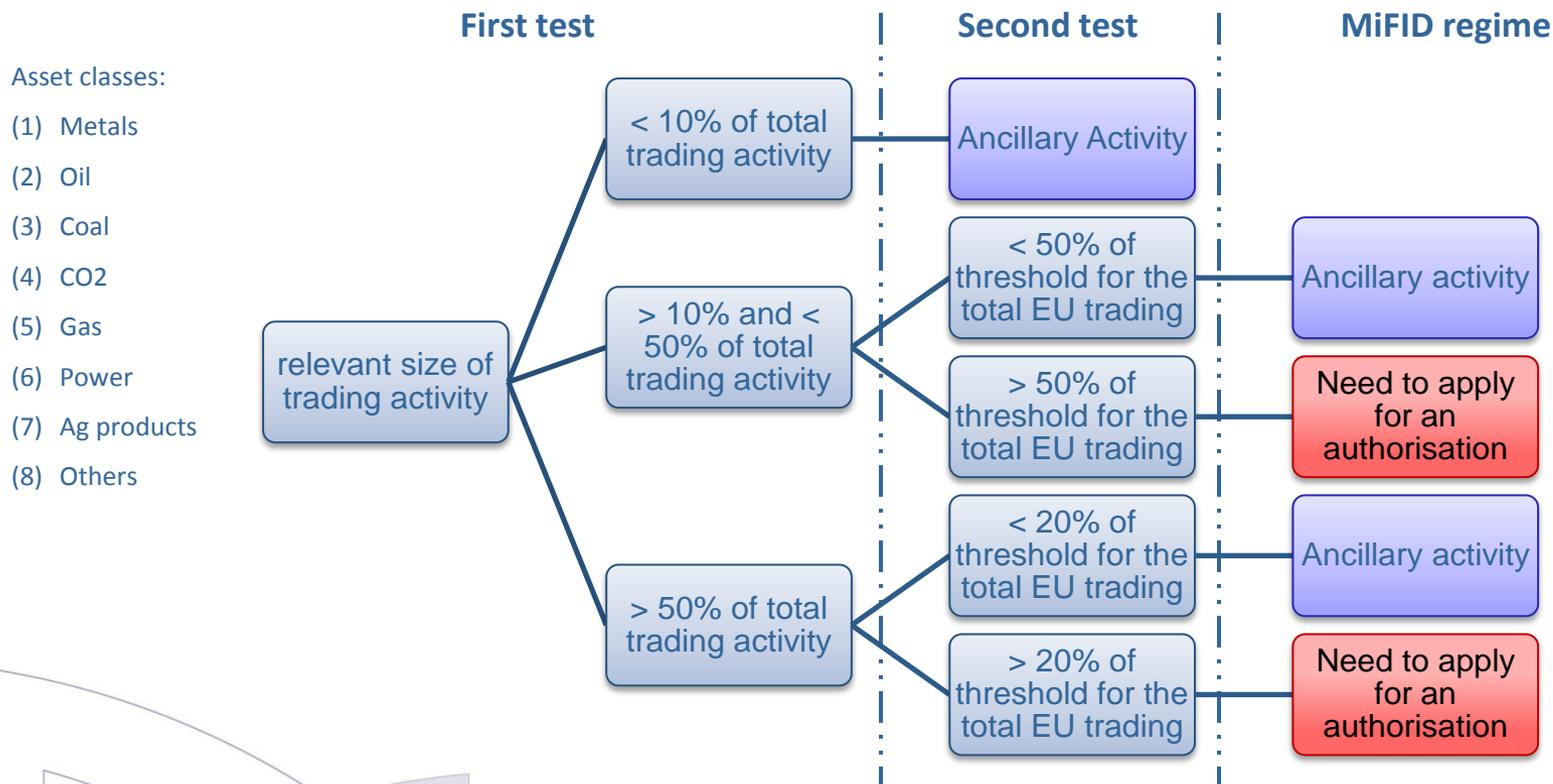
Size of trading activity (EU) – privileged transactions (EU)

Market size in GNV (EU)

Category	Metals	Oil	Coal	Gas	Power	Ags products	Others
Threshold	4%	3%	10%	3%	6%	4%	15%

3. Ancillary activity exemption (3)

2nd test – Main business test



Taille activité X	Métaux	Pétrole	Charbon	Gaz	Electricité	Produits agricoles	Autres (C10)
10% < X < 49,9%	2%	1,5%	5%	1,5%	3%	2%	7,5%
X > 50%	0,8%	0,6%	2%	0,6%	1,2%	0,8%	3%

3. Ancillary activity exemption (4)

ESMA decided to align MiFID 2 hedging definition to EMIR's definition

- **Article 10(4)(a) EMIR**
- **EMIR's RTS n°149/2013 – article 10**
- **EMIR Q&A – question 10**

Broad definition that includes macro and portfolio hedging (cross commodity hedging) but relies on a contract per contract identification.

3. Ancillary activity exemption (5) - consequences

