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Regulatory reform of EU commodity derivatives markets

4rth meeting of the Expert Group on agricultural commodity derivatives and spot markets

Brussels, 3 October, 2013

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The MiFID review: main objectives

- Updates required in light of developments in market structures and technology to ensure fair competition and efficient markets
- Tackle loopholes and less regulated and more opaque parts of the financial system in line with G20 consensus
- Improve oversight and transparency of commodity derivative markets to ensure their function for hedging and price discovery
- Raise investor protection in specific areas to support confidence
- Increased supervisory convergence across the single market and harmonised third country regime

State of play

- Comprehensive package:
  - **Markets in Financial Instruments Directive (MiFID II)**
  - **Markets in Financial Instruments Regulation (MiFIR)**
  - **Market Abuse Regulation (MAR)**
  - **Criminal Sanctions on Market Abuse Directive (CSMAD)**
- Expected timing:
  - **Trilogue process ongoing and political agreement on MAR endorsed by the EP on 10 September 2013**
  - **Political agreement on MAD and MIFID II expected before the end of 2013**
  - **18 months to develop implementing legislation**
- Entry into application of the whole package end 2015

OTC derivatives

Current key areas of discussion among co-legislators

- Mandate trading of OTC derivatives on multilateral and transparent trading venues - G20 commitments - complement to EMIR
  - **Trading/clearing obligation derivatives**
  - **Scope of OTF**
  - **Ban on prop trade (matched principal trading)**

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OTC derivatives II

Current key areas of discussion among co-legislators

- Transparency regime: Enhance price formation, reduce information asymmetries and promote competition
- Should apply across the board
  - **All execution venues - multilateral vs bilateral**
  - **All investor categories – Retail, professional**
- Calibration of post-trade requirements: Delayed disclosure for LIS orders (dynamic calibration)
- Calibration of pre-trade transparency requirements:
  - **Accommodate more than one type of trading model (including RFQ model)**
  - **Waivers only where well justified: LIS / large liquidity drop**

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Commodity derivatives

Key areas of discussion among co-legislators

- Position limits/management: market integrity and orderly pricing
- Scope / exemptions: capture non-financial entities acting as financial entities
  - Technical discussion on how to define "ancillary activity"
- Delineation between financial & physical markets: Keep MIFID I + EUAs classification as financial instruments

Market Abuse Regulation

- Extension of the scope of the market abuse prohibitions (including trades and orders to trade) to:
  - **OTC derivatives**
  - **to instruments only traded on MTFs and to the new OTF category**
- Inside information will include price sensitive information (i.e. alignment with the general definition) relevant to both the spot and derivatives markets
- Extension of the scope to market abuse occurring across both commodity and related derivatives markets
- Cooperation between financial and spot market regulators or other relevant public authorities

Benchmarks

- Amended MAR/MAD proposals on 25th July 2012:
  - **Prohibit clearly the manipulation of benchmarks (including commodities benchmarks) and make such a manipulation a criminal offence**
- Need to review benchmarks' setting processes (IOSCO Principles for Financial Benchmarks published in June 2013)
- Legislative proposal on benchmarks adopted on 18 September
- *Benchmarks should be robust, transparent and representative and should be used appropriately*
- *Commodity price assessments by PRAs are under the scope of the proposal to ensure robust and reliable benchmarks for the pricing of commodity financial instruments and contracts.*
- *IOSCO Principles for Oil PRAs are codified in annex III*

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Thank you for your attention

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