



MiFID state of play

*(Markets in Financial Instruments Directive (MiFID)
Markets in Financial Instruments Regulation (MiFIR))*

MIFID II main objectives:

- *More efficient markets by shifting trade of **derivatives** on to multilateral and transparent platforms*
- *Improve **oversight and transparency** of commodity derivative markets to ensure their function for hedging and price discovery*
- *Raise **investor protection** and increased **supervisory convergence** across the single market*
- *Address changes in trading method e.g. High Frequency Trading*

Timetable

- *Publication in OJ 12 June 2014 (entry into force 3 July 2014)*
- *Entry into application – 3 January 2017*

*Preparation of so called **Level 2** acts:*

- *Delegated acts (the Commission proposal in July 2015)*
- *Regulatory Technical Standards and Implementing Technical Standards (respectively July 2015 and January 2016)*

Detail provisions important for agri sector

- **Mandate trading** of standardised and sufficiently liquid OTC derivatives on eligible trading venues: regulated markets, Multilateral Trading Facilities or Organised Trading Facilities
- **Exemptions are narrowed down** to capture non-financial entities acting as financial entities
- Position limits, position reporting (exemptions from the limits for hedging)
- pre- and post- trade **transparency**

Problems

- *Delineation between financial & physical markets – definition of financial instruments – **physical forward contracts** potentially falling under the definition of financial instruments*
- *Risk of falling under the definition of 'financial firm' - ancillary activity thresholds (problems with definition of **hedging** transactions, the level of thresholds, classification into asset class)*

Financial instrument definition:

(Section C of Annex 1 of MiFID II)

- ...
- *(point 7) Options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled ... and not being for commercial purposes, which have the characteristics of other derivative financial instruments*
- ...

Hedging definition

- The same like in EMIR "... contracts objectively measurable as reducing risks directly relating to the commercial activity..."
- Problems with ESMA guidelines which specify further the definition, in particular, the notion of 'portfolio hedging'



Expert Group on Agricultural Commodity Derivatives and Spot Markets

http://ec.europa.eu/agriculture/cereals/commodity-expert-group/index_en.htm