



Commercial market participants' view of financial regulatory reform

**DG AGRI Commodities expert group
(14 February 2014, Brussels)**

Agenda

1. About CMC Europe
2. Post-crisis regulatory reform – commercial observations
3. EU regulatory agenda – commercial perspectives
 - a) Adopted legislation
 - b) Legislation in process
 - c) Early stage initiatives
4. CMC Europe priorities in 2014
5. Questions and comments

1. About CMC Europe

- CMC: major agri, energy, metal and other commercial market participants and leading derivative exchange groups
- Members trade large volumes of physical commodities and derivatives on global venues daily
- Unique voice of commodity and commodity derivative markets
- EU engagement since 2012 focussed on efficient, well regulated commodity derivative markets under EMIR, MAR, MiFID 2 / MiFIR

2. Post-crisis regulatory reform – commercial observations

- Financial crisis – main concern structured products and financial derivatives
- Yet financial regulatory reform has been broad in scope – commercial market participants exempted from very little
- Policy makers have not sufficiently recognised fundamentally different nature of securities v. commodity derivative markets OR physical commodity markets v. commodity derivative markets
- Unintended outcomes: less efficient physical markets → potential dramatic increase in cost of risk management & cost of physical commodities for end-users

3. EU regulatory agenda – commercial perspectives

a) Adopted legislation

EMIR	<ul style="list-style-type: none">▪ 3 Pillars: clearing, reporting and risk management▪ CMC Europe focus –<ul style="list-style-type: none">- Reporting against clearing thresholds- Treatment of ETDs traded on non-EU trading venues- Reporting, especially ETDs- Collateralising uncleared OTC positions- US v EU on scope, clearing, trading and reporting
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3. EU regulatory agenda – commercial perspectives

a) Adopted legislation

CRD4/ CRR	<ul style="list-style-type: none">▪ Implementation of Basel III framework in Union law▪ CMC Europe focus –<ul style="list-style-type: none">- OFRs for commodities trading- General application and exemptions for investment firms- Temporary exemption for commodity dealers<ul style="list-style-type: none">→ Appropriate prudential regime for commodity dealers- CRR scope v MiFID 2
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3. EU regulatory agenda – commercial perspectives

b) Legislation in process

**MAD2/
MAR**

- Overhaul of existing market abuse regime
 - CMC Europe focus –
 - Insider dealing prohibition for commodity derivatives
 - Guidelines for Article 6(1) MAR should be developed with commercial participants and are a key concern
 - Lack of hedging exemption a risk to commercial m. participants
 - Counterparties to a commodity derivative transaction are not ‘Issuers’
 - Broad liability under market manipulation provisions
 - Divergent EU and US definitions
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3. EU regulatory agenda – commercial perspectives

b) Legislation in process

MiFID2/ MiFIR	<ul style="list-style-type: none">▪ Overhaul and update of principle market legislation▪ CMC Europe focus –<ul style="list-style-type: none">– Exemptions limited to dealing on own account, where activity ‘ancillary’– Extension of scope to non-derivatives of concern given unclear scope of Annex 1, C5 – C7<ul style="list-style-type: none">→ Wide implications for commercial market participants→ Increased cost of commodities for EU manufacturers and consumers
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3. EU regulatory agenda – commercial perspectives

b) Legislation in process

MiFID2/ MiFIR	<ul style="list-style-type: none">– Position limits regime for commodity derivatives admitted to trading and ‘economically equivalent’ OTC contracts– Position reporting obligations for commodity derivatives admitted to trading and certain OTC contracts– Open access provisions remain of concern given fragmentation of liquidity pools, dissuasive impact on product innovation
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3. EU regulatory agenda – commercial perspectives

c) Early stage initiatives

BENCH	<ul style="list-style-type: none">▪ EU legislative response to LIBOR scandal▪ CMC Europe focus –<ul style="list-style-type: none">– Application to commodity price assessments– Additional requirements for contributors– Strict rules on data management– Reduced transparency for some physical markets– Unworkable third country regime
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4. CMC Europe priorities in 2014

- Focus on implementation and compliance challenges for EMIR, CRR, MAR, MiFID 2, in particular –
 - Treatment of ETDs traded on non-EU trading venues
 - Margin requirements for uncleared OTC contracts
 - Implementation of Article 493(2) CRR
 - Implementation of Article 6(3) MAR
 - Implementation of Article 59 MiFID 2 and other key provisions
- Continued engagement on key proposals in legislative review

Questions and comments

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