

## EU Financial Regulation on Commodity Derivatives - the Role of ESMA

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## Three main pieces of financial regulation in the pipeline affecting commodity derivatives

### 1) EMIR

- Level 1 text finalised
- Process of drafting implementing measures in full flow

### 2) MAR/MAD

- Commission proposals published in October 2011
- Negotiations in Council and EP on-going

### 3) MiFID/MiFIR

- Commission proposals published in October 2011
- Negotiations in Council and EP on-going

## EMIR: Main Obligations and Role of ESMA

### 1) OTC Derivatives

- Clearing obligation – potentially applying to commodity derivatives
- Risk mitigation techniques for non-cleared trades – including commodity derivatives

### 2) Trade Repositories

- Reporting of all derivatives, including commodity derivatives

### What does ESMA do?

- Consultation paper on technical standards should be published end of June
- Open hearing in mid-July
- End of consultation first week of August
- ESMA to deliver standards by end of September

## MAR: Main Provisions and Role of ESMA

### 1) Prohibition of market manipulation

- Scope encompasses spot commodity contracts having an effect on price or value of a financial instrument
- Scope encompasses financial instruments having an effect on price or value of a spot commodity contract

### 2) Prohibition of insider trading

- Update of notion of inside information in relation to commodity derivatives

### What does ESMA do?

- ESMA has to draft technical standards and expects to be asked to deliver technical advice to the Commission on other issues
- ESMA has established Task Force dealing with specific commodity derivatives related topics



## MiFID/MiFIR: Main Provisions and Role of ESMA

### 1) Scope

- Overhaul of the MiFID exemptions regime (impact on CRD application)

### 2) Position limits

- Application to commodity derivatives trading for specific purposes

### 3) Position reporting

- To the public by category of traders and to supervisors as a complete breakdown

### 4) Position management

- Ability for supervisor to manage the position of a particular person or a class of persons entering into commodity derivatives

### 5) Pre- and post-trade transparency

- Affecting commodity along with other derivatives

## MiFID/MiFIR: Main Provisions and Role of ESMA

### 6) Trading obligation

- In compliance with G20 commitments mechanisms for trading sufficiently liquid derivatives on organised venues

#### What does ESMA do?

- ESMA has to draft technical standards and expects to be asked to deliver technical advice to the Commission on a wide and long list of issues in the MiFID Level 2 process
- ESMA has established a Commodity Derivatives Task Force looking specifically at the above-mentioned issues also with a view to developments in the US. This Task Force is advised by a group of experts with a wide variety of expertise in commodity derivatives markets.
- ESMA is going to start preparatory work on MiFID II in a timely fashion.