# ESMA_QA_1523

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19/12/2016

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## Additional Information

**Level 1 Regulation**
Markets in Financial Instruments Directive II (MiFID II) Directive 2014/65/EU- Secondary Markets

**Topic**
Ancillary activity

**Subject Matter**
Does trading activity in C6 contracts which takes place on OTFs after 3 January 2018 need to be counted towards the ancillary thresholds prior to that date?

**Question**
Does trading activity in C6 contracts which takes place on OTFs after 3 January 2018 need to be counted towards the ancillary thresholds prior to that date?

## ESMA Answer

19-12-2016

Original language

[ESMA 70-872942901-36 Commodity derivatives Q&A, Q&A 3.2]

We differentiate between wholesale energy products categorised as C6 within the REMIT scope (derivatives with electricity and natural gas as underlying traded on an OTF that must be physically settled), C6 energy derivatives contracts (those with coal or oil as underlying traded on an OTF that must be physically settled) and the rest of C6 instruments.

Financial instruments under MiFID I which will also be financial instruments within C6 under MiFID II should count towards the trading activity and assessed against the ancillary thresholds.

C6 with coal or oil as underlying and the rest of C6 instruments count throughout the calculation period to determine market size, as OTC instruments until January 3, 2018 and as OTF on-venue instruments after that. For C6 instruments with coal or oil as underlying traded on OTFs this assessment is based on them only being exempted from certain EMIR obligations for a transitional period while they are being classified as financial instruments throughout the period. The same applies to the computation of positions by non-financial corporates.