European Securities and Markets Authority

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Additional Information

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

Topic
Position reporting

Subject Matter
Position reporting

Question
Which types of firm fall within each of the ITS 4 categories for the purposes of the weekly Commitment of Trader (CoT) reports?

ESMA Answer

23-09-2022

Original language

[ESMA 70-872942901-36 Commodity derivatives Q&A, Q&A 4.22]

ITS 4 implementing MiFID II provides the format of the weekly reports (CoT reports) to be published by trading venues and provided to ESMA. In providing information to the trading venues to enable them to produce weekly reports, members and participants of those venues must use their knowledge and judgment to categorise their activities and the activities of their clients accurately.

iIn order to achieve accuracy and consistency in the reporting of positions across different categories, the following guidance may be of assistance:

EU entities:

- Investment firms or credit institutions – includes banks and other firms regulated under MiFID II.
- Investment funds – entities holding investments directly in the commodity derivatives market as a form of collective investment scheme, including hedge and exchange-traded funds.
- Other financial institutions – those financial firms not falling within any of the other categories including pension funds.
- Commercial undertakings – non-financial entities using commodity derivatives, for example firms using those markets to hedge the risk they directly incur from dealing in physical commodities such as producers, end users, processors, manufacturers, shippers and merchants.
- Operators with compliance obligations under the EU ETS Directive – such as commercial airlines, entities in power and heat generation, energy-intensive industry sectors including oil refineries, steel works, production of iron, aluminium, metals, cement, lime, glass, ceramics, pulp, paper, cardboard, acids and bulk organic chemicals.

Third-country entities:

For entities based in third countries, ESMA Opinion on the classification of third-country financial entities in weekly position reports under MiFID II[1] provides further guidance.

It should be noted that it is possible for a firm to be categorised as an operator with compliance obligations under the Emissions Allowance Trading Directive for a Weekly CoT report for an emissions allowance contract or derivatives thereof while, on the other hand, it must be categorised as a commercial undertaking for a Weekly CoT referring to another asset class of commodity derivatives contract (i.e. metals, oil, coal, gas, power, etc.).

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[1] https://www.esma.europa.eu/sites/default/files/library/esma70-156-6046_opinion_on_classification_of_counterparties_in_weekly_position_reports.pdf