

## Chapter 10

# Commodity derivative position limits and controls, and position reporting

**10.4 Position reporting**

**Application**

**10.4.1** **G** The application of this section is set out in the following table:

Type of firm	Applicable provisions
<i>Regulated market</i>	MAR 10.4.2G
<i>UK firm operating a multilateral trading facility or an OTF and a UK branch of a third country investment firm operating a multilateral trading facility or an OTF</i>	MAR 10.4.3R to MAR 10.4.6G
<i>MiFID investment firm</i>	MAR 10.4.7D to MAR 10.4.9D and MAR 10.4.11G
<i>UK branch of a third country investment firm when not operating a multilateral trading facility or an OTF</i>	MAR 10.4.7D to MAR 10.4.9D and MAR 10.4.11G
<i>Member, participant or a client of a UK trading venue</i>	MAR 10.4.7D

**Position reporting by UK regulated markets**

**10.4.2** **G** A regulated market which trades commodity derivatives or emission allowances must provide position reports in accordance with paragraph 7BB of the Schedule to the *Recognition Requirements Regulations*, as inserted by the *MiFI Regulations*.

[Note: article 58(1) of *MiFID*]

**Position reporting by UK firms and UK branches of third country investment firms operating an MTF or OTF: Reports**

- 10.4.3** **R**
- (1) This rule applies to a UK firm operating a multilateral trading facility or an OTF and a UK branch of a third country investment firm operating a multilateral trading facility or an OTF.
  - (2) A firm must make public and provide to the FCA a weekly report with the aggregate positions held by the different categories of persons for the different commodity derivatives or emission allowances traded on the trading venue, where those instruments meet the criteria of article 83 of the *MiFID Org Regulation*, specifying:
    - (a) the number of long and short positions held by such categories;
    - (b) changes in those positions since the previous report;

- (c) the percentage of the total open interest represented by each category; and
  - (d) the number of *persons* holding a position in each category, as specified in ■ MAR 10.4.4R.
- (3) The *firm* must provide the *FCA* with a complete breakdown of the positions held by all *persons*, including the members or participants and *clients*, as well as those of their clients until the end client is reached, on the *trading venue* on a daily basis.
- (4) For the weekly report mentioned in (2) above, the *firm* must differentiate between:
- (a) positions which in an objectively measurable way reduce risks directly relating to commercial activities; and
  - (b) other positions.
- [Note: article 58(1) of *MiFID*, *MiFID ITS 4* on position reporting and *MiFID ITS 5* on the format and timing of weekly position reports]

**Position reporting by UK firms and UK branches of third country investment firms operating an MTF or OTF: classification of persons holding positions in commodity derivatives or emission allowances**

10.4.4

**R**

A *firm* must classify *persons* holding positions in *commodity derivatives* or *emission allowances* according to the nature of their main business, taking account of any applicable authorisation or registration, as:

- (1) *investment firms* or *credit institutions*; or
- (2) investment funds, either as a *UCITS*, or an *AIF* or an *AIFM*; or
- (3) other financial institutions, including:
  - (a) insurance undertakings and reinsurance undertakings as defined in the *Solvency II Directive*; and
  - (b) institutions for occupational retirement provision as defined in Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement; or
- (4) commercial undertakings; or
- (5) in the case of *emission allowances*, operators with compliance obligations under the *Emission Allowance Trading Directive*.

[Note: article 58(4) of *MiFID*]

**Position reporting by UK firms and UK branches of a third country investment firms operating an MTF or OTF: Procedure for reporting to the FCA**

10.4.5

**D**

- (1) This direction applies to:
  - (a) a *UK firm* operating a *multilateral trading facility* or an *OTF*; and

- (b) a UK branch of a third country investment firm operating a multilateral trading facility or an OTF.
  - (2) A firm shall report to the FCA:
    - (a) (where it meets the minimum threshold as specified in article 83 of the *MiFID Org Regulation*) the weekly report referred to in ■ MAR 10.4.3R(2), by using the form set out in Annex I of *MiFID ITS 4*, and publish it on its website; and
    - (b) in respect of the daily report referred to in ■ MAR 10.4.3R(3):
      - (i) by using the form set out in Annex II of *MiFID ITS 4* available at <https://www.fca.org.uk/markets/mifid-ii/commodity-derivatives>; and
      - (ii) in each case, the report must be provided to the FCA by 21:00 GMT the following *business day*.
- [Note: *MiFID ITS 4* on position reporting]

**Position reporting by UK firms and UK branches of a third country investment firms operating an MTF or OTF: Duplication of reporting**

- 10.4.6 G For the purposes of making the weekly report referred to under ■ MAR 10.4.3R(2), the FCA will accept an email containing a link to the report, as published on the *firm's* website. Emails should be sent to the FCA at [COT\\_reports@fca.org.uk](mailto:COT_reports@fca.org.uk).

**Position reporting by members, participants or clients of UK trading venues: trading venue participant reporting**

- 10.4.7 D
- (1) This direction applies to a member, participant or a *client* of a *trading venue*.
  - (2) A *person* in (1) must report to the relevant operator of a *trading venue* the details of their own positions held through contracts traded on that venue, at least on a daily basis, as well as those of their clients and the clients of those clients, until the end client is reached.
  - (3) [deleted]

[Note: article 58(3) of *MiFID*]

**MiFID investment firms and UK branches of third country investment firms: OTC reporting to the FCA**

- 10.4.8 D
- (1) This direction applies to:
    - (a) a *MiFID investment firm*; and
    - (b) a UK branch of a *third country investment firm*.
  - (2) An *investment firm* in (1) trading in a *commodity derivative or emission allowance* outside a *trading venue* must, where the FCA is the *competent authority* of the *trading venue* where that *commodity derivative or emission allowance* is traded, provide the FCA with a report containing a complete breakdown of:

- (a) their positions taken in those *commodity derivatives* or *emission allowances* traded on a *trading venue*;
  - (b) *economically equivalent OTC contracts*; and
  - (c) the positions of their *clients* and the clients of those clients until the end client is reached, in accordance with article 26 of *MiFIR*.
- (3) The report in (2) must be submitted to the *FCA*, for each *business day*, by 21:00 GMT the following *business day*, using the form set out in Annex II of *MiFID ITS 4* available at <https://www.fca.org.uk/markets/mifid-ii/commodity-derivatives>.
- (4) The obligation in (2) does not apply where there is a *central competent authority* for the *commodity derivative* other than the *FCA*.

[Note: 58(2) of *MiFID*, and *MiFID ITS 4* on position reporting]

10.4.9 D [deleted]

**EEA MiFID investment firms who are members, participants or clients of UK trading venues: trading venue participant reporting and OTC reporting to the FCA**  
 .....  
 .....

10.4.10 D [deleted]

- 10.4.11 G
- (1) This *guidance* applies to *persons* subject to ■ MAR 10.4.8D(2).
  - (2) A *firm* subject to ■ MAR 10.4.8D(2) may use a third party technology provider to submit to the *FCA* the report referred to in ■ MAR 10.4.8 D(2) provided that it does so in a manner consistent with *MiFID*. It will retain responsibility for the completeness, accuracy and timely submission of the report and should populate field 5 of *MiFID ITS 4* Annex II with its own reporting entity identification. It should be the applicant for, and should complete and sign, the *FCA MDP onboarding application form*.
  - (3) ■ MAR 10.4.11.G(2) applies to a *trading venue* subject to ■ MAR 10.4.
  - (4) A *firm* subject to ■ MAR 10.4.8D(2) may arrange for the *trading venue* where that *commodity derivative* or *emission allowance* is traded to provide the *FCA* with the report provided that it does so in a manner consistent with *MiFID*. The *firm* will retain responsibility for the completeness, accuracy and timely submission of the report, submitted on its behalf. The *firm* should populate field 5 of *MiFID ITS 4* Annex II with its own reporting entity identification.