

**MARKET CONDUCT SOURCEBOOK
(COMMODITY DERIVATIVES INSIDE INFORMATION) INSTRUMENT 2017**

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of section 139A (Power of the FCA to give guidance) of the Financial Services and Markets Act 2000 (the “Act”).

Commencement

- B. This instrument comes into force on 23 June 2017.

Amendments to the Handbook

- C. The Market Conduct sourcebook (MAR) is amended in accordance with the Annex to this instrument.

Notes

- D. In the Annex to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- E. This instrument may be cited as the Market Conduct Sourcebook (Commodity Derivatives Inside Information) Instrument 2017.

By order of the Board
22 June 2017

Annex

Amendments to the Market Conduct sourcebook (MAR)

In this Annex, underlining indicates new text and striking through indicates deleted text.

1 Market Abuse

1.2 Market Abuse: general

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Inside information: commodity derivatives

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1.2.19A G *ESMA has issued guidelines under article 7(5) of the Market Abuse Regulation which relate to the definition of inside information in the context of commodity derivatives.*

[Note: the guidelines are available at <https://www.esma.europa.eu/document/mar-guidelines-commodity-derivatives>.]

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1.3 Insider dealing

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Examples of insider dealing

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1.3.21 G The following description is intended to assist in understanding certain behaviours which may constitute *insider dealing* under the *Market Abuse Regulation* and concerns the definition of *inside information* relating to commodity derivatives.

Before the official publication of LME stock levels, a metals trader learns (from an *insider*) that there has been a significant decrease in the level of LME aluminium stocks. This information is ~~routinely made available to users of that trading venue~~ reasonably expected to be disclosed in accordance with market practice or custom on the LME. The trader buys a substantial number of *futures* in that metal on the LME, based upon his knowledge of the significant decrease in aluminium stock levels.

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- 1.3.23 G The following connected descriptions are intended to assist in understanding certain behaviours which may constitute *insider dealing* under the *Market Abuse Regulation* and concern the differences in the definition of *inside information* for commodity derivatives and for other *financial instruments*.
- (1) A *person* deals, on a *trading venue*, in the equities of XYZ plc, a commodity producer, based on *inside information* concerning that company.
 - (2) A *person* deals, in a commodity futures contract traded on a *trading venue*, based on the same information, provided that the information is ~~required to be disclosed under the rules of~~ reasonably expected to be disclosed or is required to be disclosed in accordance with legal or regulatory provisions at the EU or national level, market rules, contract, practice or custom, on the relevant commodity futures market.
- 1.3.24 G ESMA has issued guidelines under article 7(5) of the Market Abuse Regulation which relate to the definition of *inside information* in the context of commodity derivatives.
- [Note:** the guidelines are available at <https://www.esma.europa.eu/document/mar-guidelines-commodity-derivatives.>]