

STATUTORY INSTRUMENTS

2017 No. 701

The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017

PART 3

Position limits and position management controls in commodity derivatives

Exemption for non-financial entities

17.—(1) The calculation of the size of a position a person holds for the purposes of regulation 16(2) must not include a position which is—

- (a) held by or on behalf of a non-financial entity;
- (b) objectively measurable as reducing risks directly relating to the commercial activity of that non-financial entity; and
- (c) approved by the FCA in accordance with—
 - (i) the relevant criteria and methods; and
 - (ii) the relevant procedure.

(2) An application to the FCA for approval under paragraph (1)(c) must—

- (a) be made in such manner as the FCA may direct; and
- (b) contain or be accompanied by such information as the FCA may reasonably require for the purpose of determining the application.

(3) At any time after receiving an application and before determining it the FCA may require the applicant to provide the FCA with such further information as the FCA reasonably considers necessary to enable the FCA to determine the application.

(4) The FCA may give different directions, and may impose different requirements, in relation to different applications.

(5) In this regulation—

“the relevant criteria and methods” means the criteria and methods determined by [^{F1}Article 7 of Regulation (EU) 2017/591; and]

“the relevant procedure” means the procedure determined by [^{F2}Article 8 of Regulation (EU) 2017/591.]

Textual Amendments

- F1** Words in [reg. 17\(5\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), [8\(10\)\(a\)](#) (with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Changes to legislation: *The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017, Section 17 is up to date with all changes known to be in force on or before 18 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

F2 Words in reg. 17(5) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **8(10)(b)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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Changes and effects yet to be applied to :

- reg. 17 revoked by [2023 c. 29 Sch. 2 para. 50\(b\)\(i\)](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 15A inserted by [2023 c. 29 Sch. 2 para. 45](#)
- reg. 16(1A)(1B) omitted by [2023 c. 29 Sch. 2 para. 46\(4\)](#)