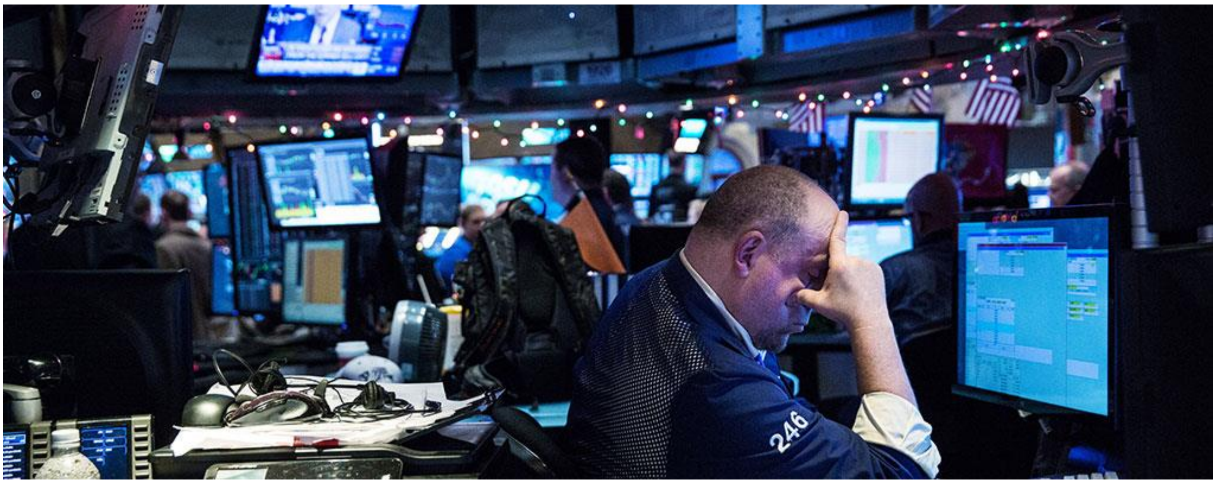
All power, gas and CO_2 traders within scope MiFID 2; There are exemptions, but no exceptions



MiFID 2 is going to impact all energy trading companies from big to small. So even if your company would pass the Ancillary exemption test, you still will have to comply with the requirements below. So being exempted from becoming an authorized MiFID 2 firm does not mean that you and your company can sit on your hands, in contrary.

The requirements for all commodity firms are:

Position Limits

o Position limits are the maximum net position which a company can hold at all times in commodity derivatives traded on exchanges or OTC.

o Only positions that are held in an objectively measurable way as reducing risks relating to commercial activity (“hedging”), will not be covered by the position limit obligations.

Reporting Obligations

o Reporting transactions to regulators.

Annual Notification of meeting exemption criteria

o In the case that your company would fall under the ancillary activity exemption you must notify the relevant competent authority **every year** that you make use of this measure and upon request you will have to report to them the basis on which you consider that your activity is ancillary to your main business.

Additional one -off and ongoing costs

Compliance in particular for smaller companies could be very costly, so you will probably do everything to keep the costs as low as possible and still meet the requirements. The above requirements make it inevitable that you will incur additional staff and IT costs for setting up the required calculations, and validation procedures and to run those calculations on a periodic basis. However, some calculations are already required by REMIT or EMIR and could be re- used and besides we could support you with offering you a tool that will help to keep the costs to an absolute minimum.

Power, gas and emissions derivatives trader MiFID 2 exemption

All in the all the big question to answer for your company is whether you will be under the MiFID 2 Commodity derivatives trader exemption or not?

To be able to successfully determine whether your company will be exempt from MiFID 2 you will have to successfully execute the following tests:

Overall market threshold test

o A company's position in an asset class such as gas or power derivatives must be under a certain threshold

Main business threshold test

o Test that judges trading activity against overall activity of the company.

Capital employed test ("Ancillary test")

o Represents a ratio between:

1. Capital that would need to be allocated for the firm to engage in speculative derivatives trading versus

2. Capital employed to conduct a firm's main business.

o Trading activity must account for less than 10% of that.

Ongoing annual exercise

The Ancillary exemption or Commodity derivatives trader exemption test is to be calculated annually in Q1 using a three year average of the previous calendar years. For example, the 2018 calculation should use data from calendar years 2015, 2016 and 2017

Clear understanding criteria

To be able to successfully execute these exercise you should at least have a proper understanding of the following

- The criteria for when an activity is considered to be ancillary to the main business;
- How to pass the overall market threshold, main business threshold and capital employed tests;
- The exact criteria for transactions qualifying as reducing risks ("Hedging exemption");

The definition of derivative financial instruments regarding indexed delivery contracts

How Maycroft can help you

We can support you with delivering the necessary intelligence and a tool that will help you with the quantitative analysis required for the ancillary activities threshold tests.

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