


Commodity position limits exemption application guide

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Introduction

This guide will help you complete the commodity position limit exemption application form.

Who should complete the form and why

This form is for non-financial entities (NFE)¹. Use it to apply for an exemption from position limits for positions held in exchange traded commodity derivatives and/or their EEOOTC contracts, as referred to under Article 57 MiFID II and Commission Delegated Regulation (EU) 2017/591 (RTS 21).

We ask you to complete the form to help us understand how using the commodity derivative reduces risks directly relating to the NFE's commercial activity.

The NFE should only apply for an exemption when it trades the relevant commodity derivatives by way of business, on a professional basis.

A non-financial entity cannot apply for an exemption for a position it holds on behalf of another entity for legal or operational reasons, including positions it holds on behalf of a group-entity. Only a non-financial entity on whose behalf such positions are held, may apply for an exemption for those positions.

An NFE only needs to apply for an exemption if its net position in a particular commodity derivative, or the net position of its group on an aggregated basis, would otherwise be more than the position limit set by the National Competent Authority (NCA).

The NFEs should apply for an exemption in respect of a limit established by another NCA, directly to that NCA in the manner it prescribes.² The applicant should provide an accurate description of the nature and scale of its activities.

What happens after application

We may make further contact with the applicant to understand their activities in the trading of the relevant commodity and may request any additional relevant information that is required in assessing the application. This will not affect the status of the application.

We will not accept your application for consideration unless we deem it complete. The applicant should accurately complete all relevant sections of the form.

1 As defined in article 2(1) RTS 21 <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0591&from=EN>. An entity may meet the definition of NFE by satisfying the ancillary activity exemption in article 2(1)(j) MiFID II.

2 MAR 10.2.5 G [please see PS17/05: www.fca.org.uk/publication/policy/ps17-05.pdf]



If we believe the application is incomplete, we may ask you to provide further information. This may result in a delay to the application.

You must notify us if:

- a significant change occurs to the nature or value of the NFE's commercial activities or trading activities in commodity derivatives
- and the change is relevant to the NFE's trading activity and positions held in the commodity derivative to which the exemption is relevant.

In such circumstances, the NFE must reapply for the exemption if it intends to continue using it. In making a new application, the entity should state the former application reference number for which they were granted an exemption, and identify the relevant commodity derivative contract.

Find out more

Handbook material relevant to the NFE exemption is in MAR 10.³

³ The provisions of relevance include those in MAR 10.2 (position limit requirements) and 10.5 (other reporting, notifications and information requirements), as published in PS17/05: www.fca.org.uk/publication/policy/ps17-05.pdf



1 General information

Application contact details

You must complete this part of the application. We will use these details to notify the applicant of approval or rejection, or for a further information request. If the contact details change, please email us: PLEXemptionsqueries@fca.org.uk

1.1 Name of non-financial entity applying for exemption

You must complete this part of the application. Please note that the applications are to be made directly by the non-financial entity applying for the exemption.

If an entity no longer qualifies as an NFE, it should cancel any existing exemptions it has been granted by submitting a cancellation form.

1.2 Legal Entity Identifier (If the NFE does not have an LEI, please provide National ID below)

You must complete this part of the application. An applicant that is a legal entity should provide an LEI. An applicant that is a natural person without an LEI, should provide a national identity number. The LEI or national identity number provided should match the identifier for the applicant in the daily position reports.

1.3 Type of application:

You must complete this part of the application. Select the reason for the application from the following options:

- a. new application for a position limit exemption
- b. new application for a position limit exemption as a result of a significant change in commercial or trading activities in commodity derivatives.
- c. cancellation of an exemption

1.4 For 1.3 B-C, please provide the reference number of the previous application to which you are applying in respect of, or cancelling.

You must complete this part of the application if you are:

- making a new application for significant change in commercial activities or trading activities in commodity derivatives or
- cancelling an exemption



1.5 For 1.3 B, briefly explain the nature of the significant change and whether it is a change in commercial activities or a change in trading activities, or both. Also, state the commodity derivative for which you currently have an exemption, in respect of which you wish to reapply. Please specify the contract name, MIC and VPC within the table provided in question 2.1

If 1.3 C is selected, please state the commodity derivative contract name, MIC and VPC in respect of which you wish to cancel a current exemption. Please ensure the relevant fields in question 2.1 are completed.



2 Exemption details

Refer to the NFE's activities carried out over the period covered by the last set of financial statements, where possible. State how recent the figures provided are, along with a statement as to whether their trading activity had changed materially in the interim period. Where the NFE does not currently trade commodity derivatives and it is not possible to refer to trading activity in the period covered by the last set of financial statements, please include estimates or projections which you should highlight clearly in the form.

The application must give a clear and concise overview of the commercial activities in the underlying commodity, the associated risks and how the commodity derivatives are used to mitigate those risks.

An exemption is per commodity derivative contract. But you can use the form to apply for multiple exemptions for a range of commodity derivative contracts. An assessment of the exemption will be made separately for each individual commodity derivative contract by the FCA.

The NFE can only apply for those positions where it is the beneficial owner.

2.1 Please provide the details of the commodity derivative contracts which you wish to seek an exemption or cancellation for in the table below.

This question is mandatory and you must complete the table with the following information:

- Trading venue name.
- Trading venue MIC code – if the applicant trades only EEOTC, the equivalent trading venue MIC code to which the EEOTC relates needs to be provided.
- VPC – if the applicant trades only EEOTC products, the applicant is required to provide the corresponding trading venue VPC.
- Commodity derivative name.
- Spot month contract total risk-reducing position: quantity should be specified in the units traded, i.e. xxxxlots.
- Other months' contract: total risk-reducing position quantity aggregated over the period covered and specified in the units traded i.e. xxxx lots.
- Units.
- If other units (please specify).

For the position value for the 'other months' contract, positions with different



maturities for within the other months' period should be netted. Persons must determine their net risk-reducing position for the other months' contract for the relevant commodity derivative. For some commodity contracts, firms should specify both contracts for which an exemption is required if traded in the UK.

The total size of the positions provided in the *spot month contract: total risk-reducing position* and *other months contract: total risk-reducing position* should be an aggregation of the figures for each same commodity derivative contract. Make this clear in the application form.

Provide a description of the exposures and risks in section 2.5.

2.2 Please provide a description of the nature and value of your commercial activity in the commodity underlying this commodity derivative. Please specify the commodity derivative alongside the description.

This field is mandatory. You must describe the nature and value of the NFE's commercial activity in the commodity relevant to the commodity derivative you are seeking an exemption for. The value of commercial activity should be provided in relation to the physical business and expressed in lots/units/other units. Value is the unit size quantity of your commercial activity.

Base the values you provide in these sections on commercial activities over the period covered by the last set of financial statements, as opposed to the projected figures, unless the entity has not traded for more than 12 months or there is a material change to a business activity.

If your submission is more than 130,000 characters long, you can upload additional information in 2.6.

2.3 How was the value of your commercial activity, as described in 2.2 calculated? Please specify the commodity derivative alongside the description.

Describe how the value of the commercial activity in the relevant commodity derivative has been calculated.

2.4 What is the nature and value of your activity in the trading of and positions held in this commodity derivative? This should include activity on trading venues and in any EEOTC. Please specify the commodity derivative alongside the description.

Describe the nature and value of the trading activity in this commodity derivative.

Break down the values into trading volumes for the spot month contract and for the other months' contract in a particular commodity derivative.



Please note that we expect the values you provide to be based on trading volumes over the period covered by the last set of financial statements, as opposed to expected figures, unless the entity has not traded for more than 12 months or there is a material change to a business activity.

2.5 Please provide a description of the nature and size of the exposures and risks in the relevant commodity which you have or expect to have as a result of your commercial activities or trading activities, and which are or would be mitigated by the use of commodity derivatives. The description should include an explanation of how your use of the commodity derivative directly reduces your exposures and risks in your commercial activities. Please specify the commodity derivative alongside the description.

Describe the nature and size of the exposures and risks as a result of the commercial activities in the relevant commodity. Please specify how using the commodity derivative(s) qualifies as reducing risks directly relating to its commercial activities. The explanation must cover the elements of Article 7 RTS 21.⁴

Explain why a particular commodity derivative is relevant to your commercial business, particularly where it may appear unrelated.

2.6 Please provide supporting evidence you wish to be considered as part of this application and highlight relevant sections.

You do not have to provide supporting evidence. But if it could help us assess your application, you may provide supporting evidence, which could include:

- Trading data.
- Financial statements.
- Internal policies describing the types of commodity derivative contracts included in the portfolios used to reduce risks directly relating to commercial activity and their eligibility criteria; the link between the portfolio and the risks the portfolio is mitigating.
- Information used to apply for the ancillary activities exemption tests under RTS20.⁵
- Information used for EMIR reporting.

⁴ Art. 7 RTS 21: http://ec.europa.eu/finance/securities/docs/isd/mifid/rts/161201-rts-21_en.pdf

⁵ MiFID II, Art. 2(1)(j)



3 Declaration

Who must sign the declaration

This section is mandatory. The signatory must be a suitable person of appropriate seniority at the firm that is able to attest to the factual accuracy and validity of the information provided in the form. Please provide the name and position of the individual providing attestation.

