

Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 21,515, 3 ta' Ottubru, 2025

Taqsima B

L.N. 219 of 2025

**FINANACIAL MARKETS ACT
(CAP. 345)**

**INVESTMENT SERVICES ACT
(CAP. 370)**

**Position Limits and Position Management Controls in Commodity
Derivatives and Reporting (Amendment) Regulations, 2025**

IN EXERCISE of the powers conferred by article 49 of the Financial Markets Act and article 12 of the Investment Services Act, the Minister responsible for the regulation of financial services, acting on the advice of the Malta Financial Services Authority, has made the following regulations:-

1. (1) The title of these regulations is the Position Limits and Position Management Controls in Commodity Derivatives and Reporting (Amendment) Regulations, 2025 and these regulations shall be read and construed as one with the Position Limits and Position Management Controls in Commodity Derivatives and Reporting Regulations, hereinafter referred to as the "principal regulations".

Citation and
scope.

S.L. 345.19.
S.L. 370.36.

(2) The scope of these regulations is to transpose Article 1(10) and (11)(a) to (c) of Directive (EU) 2024/790 of the European Parliament and of the Council of 28 February 2024 amending Directive 2014/65/EU on markets in financial instruments and Article 1(6) of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast).

2. In sub-regulation (1) of regulation 1 of the principal regulations the words "Position Limits and Position Management Controls in Commodity Derivatives and Reporting Regulations" shall be substituted by the words "Position Limits in Commodity Derivatives, Position Management Controls in Commodity Derivatives and Derivatives of Emission Allowances Regulations".

Amends
regulation 1 of
the principal
regulations.

3. Regulation 3 of the principal regulations shall be amended as follows:

Amends
regulation 3 of
the principal
regulations.

(a) the marginal note thereof shall be substituted by the following new marginal note:

"Position limits in commodity derivatives and

position management controls in commodity derivatives and derivatives of emission allowances.";

(b) sub-regulation (13) thereof shall be amended as follows:

(i) the words "An investment firm or a market operator operating a trading venue which trades commodity derivatives shall apply position management controls, including powers for the trading venue to:" shall be substituted by the words "An investment firm or a market operator operating a trading venue which trades in commodity derivatives or derivatives of emission allowances shall apply position management controls, including powers for the trading venue to:";

(ii) paragraph (b) thereof shall be substituted by the following new paragraph:

"(b) obtain information, including all relevant documentation, from persons about the size and purpose of a position or exposure entered into, information about beneficial or underlying owners, any concert arrangements, and any related assets or liabilities in the underlying market including, where appropriate, positions held in derivatives of emission allowances or positions held in commodity derivatives that are based on the same underlying and that share the same characteristics on other trading venues and in economically equivalent OTC contracts through members and participants;"

(c) in sub-regulation (15) thereof the words "The Maltese investment or market operator" shall be substituted by the words "The Maltese investment firm or market operator";

(d) immediately after sub-regulation (19) thereof, there shall be added the following new sub-regulation:

S.L. 370.02.
Cap. 370.
"(20) Notwithstanding the provisions of any other law, the provisions of this regulation shall also apply to persons as referred to in regulation 3(1) (a), (d), (f), (g), (m), (p), (r) and (aa) to (ee) of the Investment Services Act (Exemption) Regulations that are exempt from the licensing requirement established under article 3 of the Investment Services Act in accordance with the said regulation."

4. Regulation 4 of the principal regulations shall be amended as follows: Amends regulation 4 of the principal regulations.

(a) sub-regulation (1) thereof shall be amended as follows:

(i) the words "which trades commodity derivatives or emission allowances or derivatives thereof" shall be substituted by the words "which trades in commodity derivatives or in derivatives of emission allowances"; and

(ii) paragraph (a) thereof shall be substituted by the following new paragraph:

"(a) make public:

(i) for trading venues where options are traded, two (2) weekly reports, one of which is to exclude options, with the aggregate positions held by the different categories of persons for the different commodity derivatives or derivatives of emission allowances traded on their trading venue, specifying the number of long and short positions by such categories, changes thereto since the previous report, the percentage of the total open interest represented by each category, and the number of persons holding a position in each category in accordance with sub-regulation (5);

(ii) for trading venues where options are not traded, a weekly report on the elements established in sub-paragraph (i);";

(b) immediately after sub-regulation (1) thereof, as amended, there shall be added the following new sub-regulation:

"(1a) An investment firm or a market operator operating a trading venue which trades in commodity derivatives or in derivatives of emission allowances shall communicate the reports referred to in paragraph (a) of sub-regulation (1) to the competent authority and to ESMA.";

(c) sub-regulation (3) thereof shall be substituted by the following new sub-regulation:

"(3) Maltese investment firms trading in commodity

derivatives or in derivatives of emission allowances outside a trading venue shall provide, at least on a daily basis:

(a) the competent authority, in line with its role as central competent authority in terms of regulation 3(9); or,

(b) if there is no central competent authority, the competent authority of the trading venue where the commodity derivatives or the derivatives of emission allowances are traded;

with a complete breakdown of their positions taken in economically equivalent OTC contracts as well as of those of their clients and the respective clients of those clients until the end client is reached, in accordance with Article 26 of Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 and, where applicable, of Article 8 of Regulation (EU) No 1227/2011.";

(d) sub-regulation (5) thereof shall be amended as follows:

(i) the words "in a commodity derivative or emission allowance or derivative thereof" shall be substituted by the words "in a commodity derivative or in a derivative of emission allowance";

(ii) paragraph (e) thereof shall be substituted by the following new paragraph:

"(e) in the case of derivatives of emission allowances, the reporting shall not prejudice the compliance obligations under Directive 2003/87/EC.";

(e) immediately after sub-regulation (7) thereof there

shall be added the following new sub-regulation:

S.L. 370.02. "(8) Notwithstanding the provisions of any other
law, the provisions of this regulation shall also apply to
persons as referred to in regulation 3(1) (a), (d), (f), (g),
(m), (p), (r) and (aa) to (ee) of the Investment Services
Act (Exemption) Regulations that are exempt from the
licensing requirement established under article 3 of the
Cap. 370. Investment Services Act in accordance with the said
regulation.".
