


Procedure file

Basic information		
DEA - Delegated acts procedure	2016/3017(DEA)	Procedure completed - delegated act enters into force
Application of position limits to commodity derivatives Supplementing 2011/0298(COD)		
Subject 2.50.03 Securities and financial markets, stock exchange, CIUTS, investments		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	ECON Economic and Monetary Affairs		

Key events			
01/12/2016	Non-legislative basic document published	C(2016)04362	
01/12/2016	Initial period for examining delegated act 3 month(s)		
14/12/2016	Committee referral announced in Parliament		
27/01/2017	Delegated act not objected by Council		
15/02/2017	Results of vote in Parliament		
15/02/2017	Decision by Parliament		Summary
09/03/2017	Delegated act not objected by Parliament		

Technical information	
Procedure reference	2016/3017(DEA)
Procedure type	DEA - Delegated acts procedure
Procedure subtype	Examination of delegated act
Legal basis	Rules of Procedure EP 111-p03
Stage reached in procedure	Procedure completed - delegated act enters into force
Committee dossier	ECON/8/08644

Documentation gateway					
Non-legislative basic document		C(2016)04362	01/12/2016	EC	

Motion for a resolution objecting delegated act		B8-0139/2017	07/02/2017	EP	
Motion for a resolution objecting delegated act		B8-0147/2017	08/02/2017	EP	
Motion for a resolution objecting delegated act		B8-0148/2017	08/02/2017	EP	
Document attached to the procedure		C(2017)1343	21/02/2017	EC	
Document attached to the procedure		C(2017)1887	20/03/2017	EC	
Document attached to the procedure		C(2017)3565	24/05/2017	EC	

Application of position limits to commodity derivatives

The European Parliament rejected three motions for resolutions which aimed to object to the Commission Delegated Regulation of 1 December 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the application of position limits to commodity derivatives.

As a reminder, Directive 2014/65/EU of the European Parliament and of the Council introduces a new harmonised position limits regime for derivative contracts in relation to commodities.

Directive 2014/65/EU empowers the European Securities and Markets Authority (ESMA) to develop draft regulatory technical standards, and delegates power to the Commission to adopt such standards, in order to determine the methodology for calculation that competent authorities are to apply in establishing the spot month position limits and other months position limits for physically settled and cash settled commodity derivatives based on the nature of the relevant derivative.

Commission Delegated Regulation of 1 December 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council sets out the methodology for calculating position limits. This methodology sets a baseline figure for the spot month position limit in a commodity derivative of 25 % of the deliverable supply for that commodity derivative, and for other months a position limit of 25 % of open interest in that commodity derivative.

The methodology includes a derogation for any derivative contract with an underlying that qualifies as food intended for human consumption with a total combined open interest in spot and other months contracts exceeding 50 000 lots over a consecutive three-month period. For these contracts the baseline figure for spot month position limits is proposed at 20 %, with a baseline within the 2.5 % to 35 % range.

In a first motion for a resolution (tabled by the S&D group and rejected by 339 votes to 339, with 12 abstentions), Members noted that in comparison with the position limits regime in place in the USA, in which 25 % is the upper limit rather than the baseline and average position limits are 10-15 %, the proposed methodology for EU position limits is very permissive.

Members stated that for the most sensitive and highly liquid food contracts, a baseline of 20 % does not fulfil the objective stated in Directive 2014/65/EU of preventing market abuse and supporting orderly pricing and settlement conditions, and therefore does not amount to the EU meeting the commitments signed up to by G20 leaders in 2009.

In a second motion for a resolution (tabled by the Greens/EFA group), Members made the same remarks on the baseline figure of 20 %.

They added that the final baseline and overall range for other contracts (5 % to 35 %) which are deemed to be liquid was already assessed to be too broad, bearing in mind that an even more flexible special regime is provided for contracts deemed to be illiquid (5 % to 40 %) and that the definition of an illiquid contract is also potentially too broad. They noted that despite Parliaments negotiating teams explicit request, volatility has not been included as a factor to be taken into account when setting position limits at the same level as other relevant factors.

Members at the origin of the two motions for resolutions stated that Parliaments negotiating team made clear that it had significant concerns regarding the draft Regulatory Technical Standards as produced by ESMA, with regard to the baseline figure and a number of other areas and that Parliament acknowledged that some of these concerns have been addressed, but not sufficiently for the Delegated Regulation to be considered to meet the ambitious objectives of the original legislation.

They noted that it should be possible for the Commission to make additional amendments to the draft Delegated Regulation in order to allay the concerns set out in Parliaments letter. If the Commission were to make such changes, Parliament, without foregoing its scrutiny role, would consider the possibility of accelerating the approval procedure for an amended text. They called on the Commission to submit a new delegated act which takes account of the above concerns.

In a third motion for a resolution (tabled by the GUE/NGL group), Members called on the Commission to submit a new delegated act which takes into account the aforementioned concerns and especially to include the following recommendations:

- reduce the baseline position limit for the most sensitive and highly liquid food contracts to a maximum 15%,
- broaden the scope of contracts covered by reduced limits to at least all commodities with indirect effects on the prices of food for human consumption,
- redefine volatility so that it becomes a mandatory parameter in the methodology of setting the position limits.