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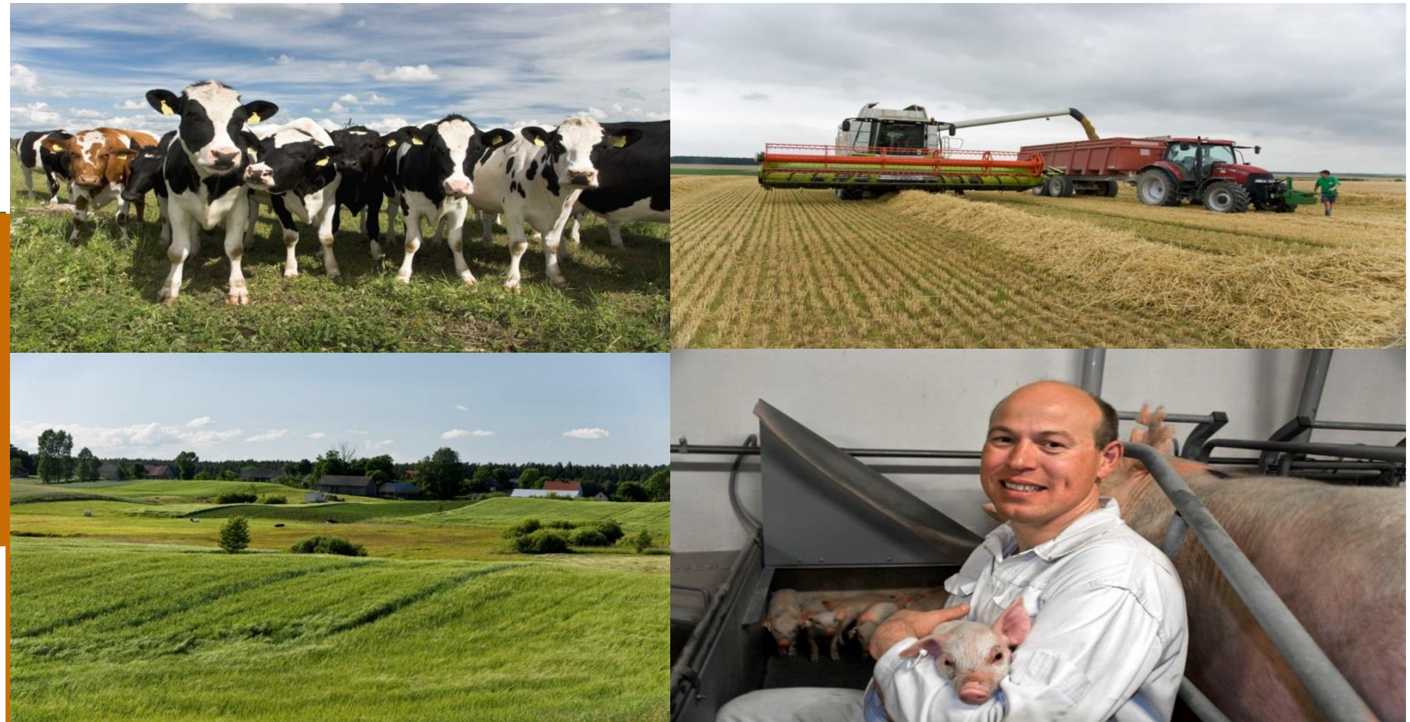

Contracts between farmers, cooperatives and the food-chain and MIFID II

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Who are Copa and Cogeca?

Copa – European farmers
Bringing together 60 EU farmers' organisations

Cogeca – European agri-cooperatives
Bringing together 35 EU agricultural cooperative organisations

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Who are Copa and Cogeca?

Two organisations...

- representing 30 million farmers and their families

- as well as around 40,000 cooperatives

- with strong links to other European countries

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Market share of agri-ccops in cereals

- cooperatives collect:
  - 74% of cereals produced in France;
  - 50% in Germany;
  - 28% in Italy,
  - 35% in Spain,
  - 12% in Hungary,
  - 7% in Poland...

- There is a more of Primary (57%) than secondary cooperatives (agri-food activities);

- There is a growing number of transnational cooperatives (they contract with farmers, buy their products or sell them inputs , they have a membership relationship with those supplying or purchasing farmers in various MS).

Contract between farmers and their cooperatives or grain merchants

In these cases : farmers are sellers, cooperatives are buyers of grain

Contract between farmers and cooperatives or their first buyer (in grain sector) : qualification ?

Type of contract	Quantity*	Qualification according to grain farmers and grain cooperatives	Qualification depending on interpretation of MIFID II	Exemption
1/ Spot	20%	PHYSICAL	No question	No need of exemption
2/Long Term*	50%	PHYSICAL	No question	No need of exemption

Quantities: we don't have exhaustive surveys. This is only estimations

**Long term contracts correspond to an agreement between the farmer and his buyer to deliver grain throughout the year. Some times the price is fixed in advance, another time the price is fixed just at the moment of the delivery or at the end of the campaign ("prix de campagne" in France for example).*

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Contract between farmers and cooperatives or their first buyer (in grain sector) : qualification ?

Type of contract	Quantity*	Qualification according to grain farmers and grain cooperatives	Qualification depending on interpretation of MIFID II	Exemption ?
3/ Forwards	**30%**	**PHYSICAL**	**If it's not clearly explained in the delegated Act, some actors could consider this contract financial because of ANNEXE C section 7 (cf. paper Coop de France).** **IT IS NOT THE INTENTION of REGULTATION**	**IF FINANCIAL : Own account for farmers and coop.** **And incoherence with the notion of hedging***

Contract between farmers and cooperatives or their first buyer (in grain sector) : qualification ?

Forward are qualify "financial Instrument" it will be complicated to have a correct approach for the ancillary activity :

1/ Each forward will be declared to a Trade Repository in accordance with EMIR as what ? Hedging ? Is it relevant to declare each trade "as hedging"? It is the core business of farmers (producing and selling grain) and their cooperatives (buying – storing and selling grain at the best price for farmers). Financial instruments are used to hedge their stocks and commitments price risk.

2/ Accounting question : farmers and cooperatives don't apply IFRS … What about the consequences if these contract are qualify 'financial instrument' , should we conduct to record them as the others 'Financial Instruments'?

Even if all (forwards and futures) will be declared "hedging" in accordance with EMIR and MIFID II, and considered excluded for the ancillary activity test calculation, it has no sense.

Physical Forwards (3) couldn't be considered as financial instrument

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Contract between farmers and cooperatives or their first buyer (in grain sector) : qualification ?

Type of contract	Quantity*	Qualification according to grain farmers and grain cooperatives	Qualification depending on interpretation of MIFID II	Exemption ?
3.1/price fixed in reference to regulated market + 3.2/price formula	10%	PHYSICAL	If it's not clearly explained in the delegated Act, some actors could consider this contract financial because of ANNEXE C section 7	Own account for the farmers For cooperatives : specific own account exemption when the execution of orders is done between two non-financial directly (recital 25 from MIFID2).

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Contract between farmers and cooperatives or their first buyer (in grain sector) : qualification ?

- **Some cooperatives are buying a large amount of their grain with this kind of contract. In this case, the ancillary activity test could be failed and compel them to comply with MIFID II regulatory provisions.**
- **Most of these contracts are concluded for small quantities = the declaration under EMIR will be very complicated and will cost a lot for farmers and cooperatives in terms of administration and compliance charges, before risk of penalties for any errors is accounted for.**
- **Farmers use mostly this contracts which give them an access to hedging tools. If the legislation is driving farmers to trade regulated exchanges, farmers will stop using this type of tools. EU farmers are new in this type of market, and are just learning it. Lets not put an end to it before it really gets flying.**

IF 3.1 and/or 3.2 are considered as financial instrument : these contracts will be concerned by the position limit (and all the reporting requirements), which is incredibly complicated and almost impossible for farmers and cooperatives.

Contract between farmers and cooperatives or their first buyer (in grain sector) : qualification ?

Type of contract	Quantity*	Qualification according to grain farmers and grain cooperatives	Qualification depending on interpretation of MIFID II	Exemption
4/ Financial instrument without commitment to deliver grain 4.1/Farmers direct with Investments Firms	**few farmers**	**FINANCIAL**	**No question**	**Own account for the farmer in both cases (4.1 – 4.2)**
4.2/ Farmers with grain merchants.	**Few farmers**	**FINANCIAL CONTRACT**	**No question**	**Providing Services for the cooperative**

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Contract between cooperatives and their customers in the food chain (processing industry / trade) qualification ?

In these cases : cooperatives are sellers of grain to the processing industry & trade

Contract between cooperatives and their customers in the food chain (processing industry / trade) qualification ?

Type of contract	Quantity*	Qualification according to grain farmers and grain cooperatives	Qualification depending on interpretation of MIFID II	Exemption
1/ Spot	10%	PHYSICAL	No question	No need of exemption
2/Long Term	20%	PHYSICAL	No question	No need of exemption
3/ Forwards	70%	PHYSICAL	If it's not clearly explained in the delegated Act, some actors could consider this contract financial because of ANNEXE C section 7 (cf. paper Coop de France). NOT THE INTENTION of REGULTATION	IF FINANCIAL : Own account for farmers and coop. And incoherence with the notion of hedging*

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Contract between cooperatives and their customers in the food chain (processing industry / trade) qualification ?

Type of contract	Quantity	Qualification according to grain farmers and grain cooperatives	Qualification depending on interpretation of MIFID II	Exemption ?
Whose 3.1/basis contract	90%	PHYSICAL	If it's not clearly explained … (idem 3/)	If financial : Own account for farmers and coop. And incoherence with the notion of hedging*
3.2/price formula	Less than 10 %	PHYSICAL	If it's not clearly explained … (idem 3/)	Own account for cooperative and hedging

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Contract between cooperatives and their customers in the food chain (processing industry / trade) qualification ?

Type of contract	Quantity*	Qualification according to grain farmers and grain cooperatives	Qualification depending on interpretation of MIFID II	Exemption
4/ Financial instrument **without commitment to deliver grain** **RM & OTC**	**??**	**FINANCIAL**	**No question**	**Own account for cooperative** (hedging most of the time)

=> these transactions, which are not "hedging" are concerned by ancillary test
=> the question is the qualification of hedging and the ancilarry test itself.

Thank you!

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