

Reply form

to the Consultation Paper on the amendments to certain technical standards for commodity derivatives

Responding to this paper

ESMA invites comments on all matters in this consultation paper and in particular on the specific questions. Comments are most helpful if they:

- respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all comments received by **23 August 2023**.

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the present response form.
2. Use this form and send your responses in Word format (**pdf documents will not be considered except for annexes**);
3. Please do not remove tags of the type <ESMA_QUESTION _PMPR_1>. Your response to each question has to be framed by the two tags corresponding to the question.
4. If you do not wish to respond to a given question, please do not delete it but simply leave the text "TYPE YOUR TEXT HERE" between the tags.
5. When you have drafted your response, name your response form according to the following convention: ESMA_PMPR_nameofrespondent_RESPONSEFORM. For example, for a respondent named 'ABCD', the response form would be entitled ESMA_PMPR_ABCD_RESPONSEFORM.
6. Upload the form containing your responses, **in Word format**, to ESMA's website (www.esma.europa.eu under the heading "Your input – Open Consultations" -> "Consultation Paper on the amendments to certain technical standards for commodity derivatives").

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publically disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the heading [Legal Notice](#).

Who should read this paper

This consultation paper is primarily of interest to trading venues, investment firms and non-financial counterparties trading in commodity derivatives, but responses are also sought from any other market participant including trade associations, industry bodies and investors.

General information about respondent

Name of the company / organisation	Deutsche Boerse Group
Activity	Regulated markets/Exchanges/Trading Systems
Are you representing an association?	<input type="checkbox"/>
Country/Region	Germany

Questions

Q1 Do you agree with ESMA’s proposal to extend the requirements to set, review and report accountability levels to trading venues trading derivatives on emission allowances? Do you have any other comments on ESMA’s proposed amendments? Please elaborate.

<ESMA_QUESTION_PMPR_1>

Yes, Deutsche Boerse Group indeed agrees to ESMA’s proposal as regards the accountability levels.<ESMA_QUESTION_PMPR_1>

Q2 Do you foresee any challenges with the use of JSON format comparing to XML? Please provide estimates of the costs and benefits (short- and long term) related to potential transition to JSON?

<ESMA_QUESTION_PMPR_2>

No, Deutsche Boerse Group does not foresee any challenges with the use of JSON.<ESMA_QUESTION_PMPR_2>

Q3 Do you agree with the other proposals to change ITS 4? Please use the reference number in the table above to provide comments on a specific proposal. In relation to the proposed change 5, are there other units of underlying to be added to the existing list including for reporting the information on emission allowances? In relation to the proposed change 7, are there other position types that should be added to provide more granular reporting, beyond the existing (futures, options and other)? In relation to the proposed change 8, do you foresee any scenarios in which the possibility to use the National ID should be retained?

<ESMA_QUESTION_PMPR_3>

As a general consideration, Deutsche Boerse Group appreciates ESMA’s ongoing efforts in consulting stakeholders on the amended technical standards in a prompt manner. We believe that the potential changes to ITS 4 must include an implementation period of at least six months from the time when these changes are adopted by the co-legislators, to take into account the preparation of the new requirements, discussions with the project owner and transition to the project developer.

Regarding proposed change 5, Deutsche Boerse Group agrees that harmonising the unit of reporting would be beneficial for all users of the weekly position reports. To easily compare weekly position reports we believe it makes most sense to report all these contracts in MWh.

Two side comments:

- It would be important for ESMA to clarify what the threshold is for publishing weekly position reports. While it is clear that in lots the threshold is 10.000, it is not clear to us what the threshold is if MWh is used.
- If we would have one unit of measurement only, there is no code needed.

To the question of whether there are other units of underlying to be added to the existing list (including for reporting the information on emission allowances), the answer is no.

Regarding proposed change 7, we believe withdrawing “EMIS” as possible Position Type may create an issue that is not documented in the consultation. Today, futures based on emission allowances are categorised as Position Type “EMIS”. EMIS positions only have a position maturity of “SPOT” (referring to the spot month contract). With the suggested withdrawal of the EMIS category, emission allowance futures will be changed to Position Type FUTR and will need to be reported with position maturities of SPOT (the spot month contract) and OTHR (all other contract maturities). In this case, Deutsche Boerse Group recommends specifying that in emissions allowance futures the spot month of a contract is the December maturity, as the main futures contract maturity traded in emissions allowances is currently the December contract.

Without the above-described correct identification of the spot month contract in emission allowance futures, Deutsche Boerse Group does not support withdrawing the EMIS category. The incorrect classification of the spot month contract would create an artificial division that doesn’t reflect how the emission allowance futures market operates.

Regarding proposed change 8 and the question whether we foresee any scenarios in which the possibility to use the National ID should be retained our answer is no. It should only be retained for position holder and ultimate parent.

Deutsche Boerse Group agrees with all other changes. **Related to proposed change 9**, however, we believe sufficient implementation time should be foreseen.

As a general comment, we would kindly ask ESMA to clarify the language for the conditions triggering the weekly reporting in item 68 under 3.2.1 Amendments to ITS 4 section. Our understanding is that if the “futures and options combined” exceed the threshold of 20 open position holders in a given contract and amount of open interest – 10,000 lots, two types of reporting should be done: (i) for the futures and options, and (ii) new weekly report excluding options. If the thresholds are not exceeded, no reporting should be done. However, we have concerns from a legal perspective that the language in item 68 might be misleading as it could also be understood that even if “futures and options combined” do not exceed the thresholds, new weekly report excluding options must be reported in all cases. The confusion arises due to the following sentence “...thresholds apply to the weekly report based on futures and options combined, and not individually to the new weekly reports (excluding options)”. Thus, we suggest ESMA to improve the language in item 68 to make the conditions triggering the weekly reporting less prone to misunderstanding.<ESMA_QUESTION_PMPR_3>

Q4 Do you support the draft Technical Advice related to Article 83 of CDR 2017/5654?

<ESMA_QUESTION_PMPR_4>



Yes, Deutsche Boerse Group indeed supports ESMA's proposal to Article 83 of CDR 2017/5654. In addition, we would appreciate a clarification of the threshold for reporting for contracts that are not reported in lots.<ESMA_QUESTION_PMPR_4>