Contribution ID: a3e8720b-e052-43ea-b315-160e323566fd
Date: 22/04/2025 13:59:31

Targeted consultation on the review of the functioning of commodity derivatives markets and certain aspects relating to spot energy markets

Fields marked with * are mandatory.

Introduction

Commodity derivatives are key instruments for market participants to hedge their exposures in the underlying commodity markets (energy, agricultural commodities, metals, etc.). Those markets are characterised by the participation of mainly non-financial entities. Such entities include physical commodity producers, utilities, large energy-intensive corporations, physical commodity traders, etc., that are directly dependent on those markets to mitigate the risks entailed by their commercial activity.

The proper functioning of commodity derivatives markets plays an important role for the stability and prosperity of the EU economy and, as regards energy derivatives markets, for the affordability of energy in the Union and the efficient functioning of the market. Markets for commodity derivatives in the EU are therefore subject to an extensive set of rules that cater for the specific nature and relevance of those instruments to the EU economy.

Akin to, but not strictly speaking considered to be commodities, emission allowances (EUAs) have been added to the financial rulebook upon the adoption of MiFID II (Markets in Financial Instruments Directive) as from January 2018. Since then, the majority of provisions applicable to commodity derivatives also apply to EUAs and/or derivatives thereof. For the sake of conciseness, readers of this consultation paper should consider EUAs and EUA derivatives to be included when referring to commodity derivatives. Stakeholders are however invited to outline specificities for trading of emission allowances and derivatives thereof, where relevant, in their answers throughout the questionnaire.

Article 90(5) of MiFID, as amended in February 2024, requires the Commission, after consulting the European Securities and Markets Authority (ESMA), the European Banking Authority (EBA) and the Agency for the Cooperation of Energy Regulators (ACER), to present a report to the European Parliament and the Council with a comprehensive assessment of the markets for commodity derivatives, EUAs or derivatives on EUAs. The report shall assess, for each of the following elements, their contribution to the liquidity and proper functioning of European markets for commodity derivatives, EUAs or derivatives on EUAs:

a. the position limit and position management controls regimes relying on data provided by competent authorities to ESMA in accordance with Article 57(5) and (10) of MiFID

b. the elements referred to in the second and third subparagraphs of Article 2(4) of MiFID and the criteria for establishing when an activity is to be considered to be ancillary to the main business at group level pursuant to the Commission Delegated Regulation (EU) 2021/1833, taking into account the ability to enter into transactions for effectively reducing risks directly relating to the commercial activity or treasury financing activity, the application of requirements from 26 June 2026 for investment firms specialised in commodity derivatives or EUAs or derivatives thereof as set out in Regulation (EU) 2019/2033 and requirements for financial counterparties as set out in Regulation (EU) 648/2012

c. the key elements to obtain a harmonised data set for transactions by the commodity derivative market to a single collecting entity. The relevant information on transaction data to be made public and its most appropriate format.

Energy derivatives, which may be either physically or financially settled, are considered wholesale energy products under the EU Regulation on wholesale energy market integrity and transparency (REMIT). REMIT establishes rules prohibiting abusive practices affecting wholesale energy markets which are coherent with the rules applicable in financial markets and with the proper functioning of those wholesale energy markets, whilst taking into account their specific characteristics. REMIT also provides for the monitoring of wholesale energy markets by the Agency for the Cooperation of Energy Regulators (ACER) in close collaboration with national regulatory authorities (NRAs). For such monitoring, REMIT ensures that ACER also receives structural data on capacity and use of facilities for production, storage, consumption or transmission of energy.

The recent energy crisis peaking in the summer 2022 and the extreme volatility observed in energy markets over that period have sparked a renewed debate on the proper functioning of those markets and on the appropriateness of the applicable rulebooks.

In March 2023, as part of its response to the crisis, the Commission proposed, a reform of the REMIT framework, which entered into force in May 2024 (the revised REMIT). The reform makes market monitoring of wholesale energy markets more effective, enhances their transparency, and strengthens investigatory and sanctioning powers by regulators against market abuse.

The above-mentioned crisis was also discussed in the recent report by Mario Draghi on *The future of European competitiveness*, published in September 2024. The report includes a significant number of recommendations linked to the functioning of energy spot and derivatives markets, as a means to ensure the European industry access to affordable energy and enhance its competitiveness (see section 6 for detail).

The outcome of this consultation serves several objectives

- Firstly, it will feed into the MiFID report exercise, with a view to making the EU commodity derivatives markets more efficient and resilient, ultimately delivering benefits to the real economy, and bearing in mind the Commission’s general objective to reduce regulatory burden on EU firms

- Secondly, it will allow the Commission to collect evidence to feed into broader reflections on the wholesale energy and related financial markets that may inform future policy choices in this area

- Where appropriate, this may call for legislative amendments of the relevant legislation, including MiFID and REMIT

- The solutions under consideration may in some cases be specifically targeted at certain types of contracts or commodities. It could, for example, be possible to identify specific solutions as regards gas-related contracts (as opposed to other commodities)

This consultation is launched in conjunction with the action plan on affordable energy adopted by the Commission on [DATE + PLACEHOLDER TO ALIGN WITH WORDING OF THE APAE].

This consultation seeks stakeholders’ feedback on a broad range of issues, including:

- data aspects relating to commodity derivatives
- the ancillary activity exemption (AAE)
- position management and position reporting
- position limits
- circuit breakers
- and other elements stemming from the Draghi report on EU competitiveness

Who should respond to this consultation

This consultation will be open for a duration of 8 weeks, until 23 April 2025.

This consultation is addressed to commodity market participants in the European Union, regardless of where such market participants are domiciled or where they have established their principal place of business, securities markets supervisors and commodity regulators. Commodity exchanges, clearing counterparties (CCPs) active in the clearing of commodity futures and commodity clearing houses are also invited to participate, as well as trade repositories and registered reporting mechanisms.

Please note: In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact fisma-commodities@ec.europa.eu.

More information on

- this consultation
- the consultation document
- Investment services and regulated markets
- the protection of personal data regime for this consultation

About you

---

* Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish

- Dutch
- (selected) English
- Estonian
- Finnish
- French
- German
- Greek
- Hungarian
- Irish
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

*I am giving my contribution as

- Academic/research institution
- (selected) Business association
- Company/business
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

*First name

Carlo

* Surname

De Giacomo

* Email (this won't be published)

carlo.degiacomo@afme.eu

* Organisation name

255 character(s) maximum

Association for Financial Markets in Europe (AFME)

* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- ● Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](). It's a voluntary database for organisations seeking to influence EU decision-making.

65110063986-76

* Country of origin

Please add your country of origin, or that of your organisation.

- Afghanistan
- Åland Islands
- Albania
- Algeria
- American Samoa
- Andorra
- Djibouti
- Dominica
- Dominican Republic
- Ecuador
- Egypt
- El Salvador
- Libya
- Liechtenstein
- Lithuania
- Luxembourg
- Macau
- Madagascar
- Saint Martin
- Saint Pierre and Miquelon
- Saint Vincent and the Grenadines
- Samoa
- San Marino
- São Tomé and Príncipe

Angola	Equatorial Guinea	Malawi	Saudi Arabia
Anguilla	Eritrea	Malaysia	Senegal
Antarctica	Estonia	Maldives	Serbia
Antigua and Barbuda	Eswatini	Mali	Seychelles
Argentina	Ethiopia	Malta	Sierra Leone
Armenia	Falkland Islands	Marshall Islands	Singapore
Aruba	Faroe Islands	Martinique	Sint Maarten
Australia	Fiji	Mauritania	Slovakia
Austria	Finland	Mauritius	Slovenia
Azerbaijan	France	Mayotte	Solomon Islands
Bahamas	French Guiana	Mexico	Somalia
Bahrain	French Polynesia	Micronesia	South Africa
Bangladesh	French Southern and Antarctic Lands	Moldova	South Georgia and the South Sandwich Islands
Barbados	Gabon	Monaco	South Korea
Belarus	Georgia	Mongolia	South Sudan
Belgium	Germany	Montenegro	Spain
Belize	Ghana	Montserrat	Sri Lanka
Benin	Gibraltar	Morocco	Sudan
Bermuda	Greece	Mozambique	Suriname
Bhutan	Greenland	Myanmar/Burma	Svalbard and Jan Mayen
Bolivia	Grenada	Namibia	Sweden
Bonaire Saint Eustatius and Saba	Guadeloupe	Nauru	Switzerland
Bosnia and Herzegovina	Guam	Nepal	Syria
Botswana	Guatemala	Netherlands	Taiwan
Bouvet Island	Guernsey	New Caledonia	Tajikistan
Brazil	Guinea	New Zealand	Tanzania
	Guinea-Bissau	Nicaragua	Thailand

British Indian Ocean Territory			
British Virgin Islands	Guyana	Niger	The Gambia
Brunei	Haiti	Nigeria	Timor-Leste
Bulgaria	Heard Island and McDonald Islands	Niue	Togo
Burkina Faso	Honduras	Norfolk Island	Tokelau
Burundi	Hong Kong	Northern Mariana Islands	Tonga
Cambodia	Hungary	North Korea	Trinidad and Tobago
Cameroon	Iceland	North Macedonia	Tunisia
Canada	India	Norway	Turkey
Cape Verde	Indonesia	Oman	Turkmenistan
Cayman Islands	Iran	Pakistan	Turks and Caicos Islands
Central African Republic	Iraq	Palau	Tuvalu
Chad	Ireland	Palestine	Uganda
Chile	Isle of Man	Panama	Ukraine
China	Israel	Papua New Guinea	United Arab Emirates
Christmas Island	Italy	Paraguay	United Kingdom
Clipperton	Jamaica	Peru	United States
Cocos (Keeling) Islands	Japan	Philippines	United States Minor Outlying Islands
Colombia	Jersey	Pitcairn Islands	Uruguay
Comoros	Jordan	Poland	US Virgin Islands
Congo	Kazakhstan	Portugal	Uzbekistan
Cook Islands	Kenya	Puerto Rico	Vanuatu
Costa Rica	Kiribati	Qatar	Vatican City
Côte d'Ivoire	Kosovo	Réunion	Venezuela
Croatia	Kuwait	Romania	Vietnam

Cuba	Kyrgyzstan	Russia	Wallis and Futuna
Curaçao	Laos	Rwanda	Western Sahara
Cyprus	Latvia	Saint Barthélemy	Yemen
Czechia	Lebanon	Saint Helena Ascension and Tristan da Cunha	Zambia
Democratic Republic of the Congo	Lesotho	Saint Kitts and Nevis	Zimbabwe
Denmark	Liberia	Saint Lucia	

*Field of activity or sector (if applicable)

- [ ] Accounting
- [ ] Agricultural cooperative/agricultural commodity production
- [ ] Auditing
- [ ] Banking
- [ ] Benchmark/index administration
- [ ] Credit rating agencies
- [ ] Energy utility (e.g. producer, supplier)
- [ ] Trading
- [ ] Insurance
- [ ] Market maker
- [ ] Pension provision
- [ ] Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)
- [ ] Financial Market infrastructure operation (e.g. exchanges trading commodity derivatives, CCPs, CSDs)
- [ ] Spot energy exchange operation
- [ ] Trade-matching system
- [ ] Brokering service provider
- [ ] Commodity
- [ ] Transmission System Operator
- [ ] Distribution System Operator
- [x] Other
- [ ]

Not applicable

* Please specify your activity field(s) or sector(s)

Financial Services

* Is your entity active in commodity derivatives trading?

- Yes
- No (selected)
- Don't know / no opinion / not applicable

* Is your entity active in spot/physical markets?

- Yes
- No (selected)
- Not applicable

The Commission will publish all contributions to this public consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, 'business association, 'consumer association', 'EU citizen') country of origin, organisation name and size, and its transparency register number, are always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

* **Contribution publication privacy settings**

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

- **Anonymous**
  Only the organisation type is published: The type of respondent that you responded to this consultation as, your field of activity and your contribution will be published as received. The name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.
- **Public** (selected)
  Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

☑ I agree with the personal data protection provisions

1. Data aspects

1.1 Commodity derivatives reporting and transparency under the financial rulebook

Commodity derivatives trading is subject, under the current financial rulebook, to three main pieces of legislation relating to transparency and reporting: the Markets in Financial Instruments Directive (Directive (EU) 2014/65, MiFID), the Markets in Financial Instruments Regulation (Regulation (EU) 600/2014, MiFIR) and the European Infrastructure Market Regulation (Regulation (EU) 648/2012, EMIR).

While reporting to trade repositories under EMIR captures all commodity derivatives transactions involving at least one EU counterparty, reporting requirements under MiFID/MiFIR differ depending on the type of data, the addressee and whether the trade takes place on a trading venue or not. MiFIR also contains details on the conditions under which transaction-related data in financial instruments is to be transparently disseminated to the public.

MiFID provides that information on positions is to be reported daily to National Competent Authorities (NCAs) by trading venues as regards market participants active on their venue (MiFID Article 58(1)). Market participants are in turn required to report daily to the trading venue on their positions in derivative contracts traded on that venue (MiFID Article 58(3)). Lastly, investment firms are due to report positions in economically equivalent overt-the-counter (OTC) contracts to NCAs on a daily basis (MiFID Article 58(2)). All such position reporting requirements are further discussed under section 3.

MiFIR, in turn, provides that:

- all transactions in commodity derivatives taking place on a trading venue are to be reported by investment firms (or, if market participants are not investment firms, by the investment firm operating the venue on which the market participants executed the transaction) to NCAs pursuant to Article 26
- transactions in commodity derivatives carried out outside a trading venue are not subject to systematic transaction reporting to NCAs. However, investment firms are required to keep the relevant data relating to all orders and transactions in commodity derivatives which they have carried out at the disposal of the NCA for five years, pursuant to Article 25
- all transactions in commodity derivatives taking place on a regulated market are subject to publication of data on price, volume and time of transactions pursuant to Article 10 (post-trade transparency)
- regulated markets are required to disclose current bid and offer prices, as well as the depth of trading interests, relating to commodity derivatives traded on their venue (pre-trade transparency), pursuant to Article 8a(1)
- trading in commodity derivatives occurring on a Multilateral Trading Facility (MTF) or an Organised Trading Facility (OTF) is not subject to pre- nor post-trade transparency, pursuant to Article 8a(2). It is worth reminding that all physically-settled wholesale energy contracts traded on an OTF are subject to the 'C6 carve-out' (wholesale energy products that are (i) mandatorily physically settled and (ii) traded on an OTF are subject to a carve-out from MiFID and are not considered financial instruments. They are commonly referred to as 'C6 carve-out instruments'), which scopes those contracts out of the financial rulebook
- as regards the interaction between the upcoming consolidated tape and commodity derivatives, the consolidated tape does not include pre- nor post-trade information on commodity derivatives

1.2 Commodity derivatives reporting and transparency under REMIT

Energy commodity spot and derivatives trading is also subject, under the current energy rulebook, to two main pieces of legislation relating to transparency and reporting: the Wholesale Energy Market Integrity and Transparency Regulation (Regulation (EU) 1227/2011, REMIT) and REMIT Implementing (Regulation (EU) 1348/2014).

The reporting framework under REMIT and its implementing Regulation currently provides that:

- any transactions related to wholesale energy products, including matched and unmatched orders to trade, that are placed on an organised marketplace (OMP) should be reported to ACER. These are currently reported to ACER on a daily basis, with a delay of one day
- in addition, any transactions related to wholesale energy products that are concluded outside of an OMP, i.e., OTC, are also reportable under REMIT. Those transactions are currently reported with up to one month delay from the date they were concluded
- the aforementioned data reporting also relates to trading from non-EU market participants, who engage in the trading of wholesale energy products, as defined in Article 2(4) of REMIT

The information that is reported to ACER is also shared with the NRAs. The REMIT Implementing Regulation is currently under revision.

REMIT also provides that reporting obligations under REMIT are considered fulfilled when the abovementioned transactions have been reported under financial legislation by market participants, third parties acting on behalf of a market participant, trade reporting systems, or OMPs, trade-matching systems or other persons professionally arranging or executing transactions.

Lastly, the revised REMIT establishes an obligation to set data sharing mechanisms between various regulators, including ACER, ESMA, Eurofisc, the European Commission, NRAs, NCAs national competition authorities and other relevant authorities in the Union. That information exchange framework aims to ensure that the information ACER receives through the reporting requirements under REMIT can be used for the tasks of the other regulators mentioned above.

1.3 Data sharing between energy and securities markets supervisors

The current regulatory set up leads to a multiplication of reporting channels, to which only the relevant regulators have systematic access. ACER and consequently the (energy) NRAs are the recipients of data relating to wholesale energy products, while ESMA and the NCAs receive the data reported under the financial rulebook. This means that, currently, data reported under REMIT do not necessarily make their way to financial regulators and vice versa. For instance, NCAs and ESMA do not have systematic access to data relating to ‘C6 carve-out’ products and other spot market products, which is reported to ACER. This creates a data gap that may affect ESMA’s and NCAs’ ability to understand and therefore adequately supervise the markets that fall under financial legislation. Moreover, diverging reporting standards between products subject to REMIT reporting and those reported under MiFIR/EMIR, despite sometimes being closely related (e.g., a futures contract traded on an exchange and subject to the financial rulebook reporting vs a physically-settled forward contract traded on an OTF reported under REMIT), add to further complexifying reporting procedures and the consolidation and analysis of data.

This section therefore seeks to identify areas where reporting should be streamlined and/or better harmonised, bearing in mind the Commission’s burden reduction objective. It also seeks to explore whether the creation of a single reporting mechanism for spot and derivative energy products (i.e., not concerning other commodities nor EUAs) could improve the situation on access to relevant data for supervisors on both sides. In that regard, trade repositories, which already collect data on all derivatives transactions (whether OTC or venue-traded), and Registered Reporting Mechanisms (RRMs), which play a similar role under REMIT, could play the role of single access point for all reporting related to energy-related products, spot or derivatives. A third entity, consolidating the data from trade repositories and RRMs would be an alternative option. ESMA, ACER, NRAs, NCAs and, where relevant, the European Commission, would have equal access to such data. Access to such consolidated data by trading venues in the context of their position management controls mandate could also be explored – see section 2.3.

Lastly, this central data collection mechanism could also serve as a one-stop-shop for data reporting by market participants active on both types of markets, thus alleviating the reporting burden for energy traders (which often need to report under MiFID/MiFIR, EMIR and REMIT). This would also necessitate establishing common reporting standards based on harmonised data formats and protocols between products across the spot/derivatives spectrum, which would eliminate unnecessary diverging reporting requirements and simplify the data landscape for reporting market participants and supervisors alike.

Questions related to section 1

Question 1. Do you believe that REMIT reporting, on the one hand, and MiFID/MiFIR/EMIR reporting, on the other hand, should be streamlined and/or more harmonised?

- (x) Yes
- ( ) No
- ( ) Don't know / no opinion / not applicable

Could you point to specific reporting items that need to be streamlined/aligned, and how?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AFME members support the following ISDA/FIA response to Question 1:
"The Associations note that transaction reporting is a significant and growing burden on firms.
The EU reporting regime has developed over time in piecemeal fashion, and we believe that there is scope to streamline requirements to remove duplication, reduce unnecessary burden and reconsider areas where the cost of reporting exceeds the supervisory benefit.
However, we are concerned that recent reviews and efforts to harmonise reporting regimes in the EU have had the undesirable consequence of placing additional burden on market participants by adding new fields and format changes to reporting requirements.
As a case in point, the consultation on MiFIR RTS 22 proposes to almost double the number of reportable fields, which appears to contradict the ambition espoused in parallel by the simplification and burden reduction agenda.
While we agree with the principle that reporting should be streamlined and harmonised, we are deeply concerned that efforts to achieve this without thorough analysis of the data regulators currently receive across all regimes and asset classes, vs what is truly needed to perform their supervisory duties, will result in still more burden being placed upon market participants.
We urge the Commission, ESMA and ACER to pause all current activity relating to reporting reviews and their implementation, unless such analysis is carried out and holistic requirements can be developed, with burden reduction as a guiding principle.
In parallel, we strongly encourage further collaboration between supervisory bodies to allow full access to data across regimes, without placing additional requirements upon market participants to achieve this. For example, while order-related data reported under REMIT cannot be obtained from data reported under EMIR or MiFID/MiFIR, order-related data does exist within Exchange order book records.
Regarding the provision intended to avoid double reporting under REMIT, we do not believe this to be effective, due to differences between EMIR and REFIT in each of reporting eligibility, format requirements, mechanisms and delegation. Instead, to mitigate double-reporting under REMIT, EMIR and MiFID/MiFIR in the medium term, we recommend that the scopes of the regimes are revised to reduce overlap as far as

possible, and to amend the reporting waterfall to clarify where the reporting responsibility lies – potentially introducing a ‘Designated Publishing Entity’ type regime to determine whether market participant or OMP should submit a transaction report.

As part of a medium-term review, the Associations encourage the Commission, ESMA and ACER to consider all sources of data to which they have access to ensure that reporting obligations on firms are proportionate and restricted to data that is unavailable from other sources. This would ease the burden on firms and reduce associated costs without compromising data to which regulators have access. For example, we note that under UK REMIT, Ofgem monitors trading in wholesale energy markets using data collected from Organised Market Places (OMPs). Other data is available via Elexon and TSOs.

Additionally, the Associations strongly encourage the Commission, ESMA and ACER to adopt measures for machine readability and semantic accuracy (i.e., regulatory reporting requirements as code), that will significantly simplify reporting and the implementation of future reporting reviews. We point to current developments in the UK as an indication of how this can be achieved.

Finally, as part of the analysis of current versus desired state, we encourage the Commission, ESMA and ACER to consider the benefits of agreeing a common dataset, to be reported once in compliance with multiple reporting regimes; and how such an end state might be achieved in the longer term.

To summarise, the Associations consider a three-phase approach is necessary:

- As an immediate step, impose a pause on further changes to reporting regimes, as well as reporting changes that are currently under way but not yet in force (key examples are REMIT II and MiFIR RTS 22)
- In the medium term: (a) embark on a wide-ranging analysis of what is necessary for supervision vs what is currently reported across all regimes/ available from other sources, with a fundamental emphasis on simplification, rationalisation and discarding duplicative reporting; (b) implement a centralised data collection entity as a layer above existing reporting repositories (RRMs, ARMs and TRs), with access available to all regulators; (c) progressively adopt measures such as machine readability and semantic accuracy
- In the longer term, move towards a “report once to a single reporting repository” framework across all regimes”

Question 2. Reporting under MiFID/MiFIR/EMIR, on the one hand, and REMIT, on the other hand, can vary in terms of format and transmission protocols.

In your view, which reporting standards and protocols should be used as reference (REMIT or MiFID/MiFIR/EMIR) if formats and reporting protocols were to be made uniform?

Please also provide, if possible, information on one-off costs and long-term savings from such harmonisation.

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AFME members support the following ISDA/FIA response to Question 2:

“The Associations strongly believe that questions of how best to standardise reporting formats and transmission protocols should be addressed as part of much deeper and wider analysis as proposed in our response to Q1.

The Associations reiterate that any currently proposed changes, including to format and transmission protocols, should be paused; and that any future changes to format and transmission protocols should result from a holistic review across regimes.

Any such review should consider which format and transmission protocol best serve the adoption of machine readability and semantic accuracy. We refer to the three-phase approach we describe in our response to Q1.
Taking into consideration some of the costs associated with reporting under the various reporting regimes:
• REMIT reporting consists of RRM costs and REMIT fees (based on the number of trades reported, see details here: REMIT Fees | https://www.acer.europa.eu/remit/about-remit/remit-fees). If ACER were to amend the reporting requirements as outlined in our response to Q1 above, this would significantly reduce the cost burden for firms.
• MiFID transaction reporting cost consists of firms' own reporting solution cost as well as costs associated with reporting to an Approved Reporting Mechanism (ARM), where applicable.
• MiFID position reporting cost consists of firms' own reporting solution cost and relatively small charge from the trading venues.
EMIR reporting cost consists of firms' own reporting solution cost and Trade Repository charges based on the number of trades per month, and additional venue cost for delegating the ETD trades reporting to venues. Firms usually provide free delegated reporting for their clients."

Question 3. Do you believe that a centralised data collection mechanism for collecting data related to REMIT and MiFID/MiFIR/EMIR reporting would alleviate the current reporting burden on market participants?

- (●) Yes
- ( ) No
- ( ) Don't know / no opinion / not applicable

Please explain how could it be alleviated and what level of possible cost savings could result from such exercise (order of magnitude), distinguishing one-off costs and recurring compliance costs (for instance, per year).

Please also explain how you would structure such a possible centralised data collection mechanism (both in terms of data collection and dissemination/access) in a way that, on the one hand, would limit the costs of its set-up (i.e., using to the maximum the existing functionalities of trade repositories/RRMs) and, on the other hand, limit any possible one-off costs of adjustment for reporting entities?

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AFME members support the following ISDA/FIA response to Question 3:
"The Associations agree that a centralised data collection mechanism has the potential to reduce the regulatory burden on market participants and reduce some of the costs associated with complying with regulatory reporting.
A single centralised data collection mechanism for all European transaction reporting regimes could be beneficial for market participants, provided its implementation does not require further integration effort by reporting entities.
However, consistent with our answers to Q1 & 2 above, our members are deeply concerned that hasty

implementation of such a mechanism will, to the contrary, once again impose further burden on market participants.
We consider that if such a mechanism were to be implemented prior to any holistic review as proposed in our response to Q1, this should take the form of a layer above existing data repositories, with consumption of the data from the various repositories and its normalisation being the responsibility of whichever supervisory body is tasked with its implementation.
The Associations note that today, each reporting flow is different:
- Remit reporting flow is from OMP to RRM to ACER.
- EMIR reporting is transmitted to Trade Repositories.
- MiFIR transaction reporting is from reporting firms (or ARMs if outsourced) to home NCAs and TREM (data sharing with other NCAs).

Therefore, it can be seen that the effort that would be required market participants to modify their reporting frameworks to report directly to a centralised data collection mechanism would be significantly amplified. Again, this would be contrary to the burden reduction agenda.
Instead, regarding the structure of the centralised data mechanism, we propose keeping the submissions as-is today, with submissions to the TR/ARM/RRM by market participants through existing channels and protocols (e.g. XML submissions), as described in our response to Q1. Functionalities offered today by reporting repositories (e.g. trade state report, and pairing and matching reports) should remain, and ultimately those same functionalities should be provided across all regimes through the centralised data mechanism. For example, the same functionalities available through DTCC as a TR for EMIR, should be available for REMIT reporting.
This solution would limit the cost of implementation to that for the centralised data mechanism and existing reporting repositories to progressively onboard reporting regimes, without major format and pass-through changes needing to be implemented by reporting parties.
The centralised data mechanism could then provide reports both by regime, and across regime.
We also note that longer term, any eventual move to a "report once" framework, as contemplated in our response to Q1, would, by definition, be to a single data repository. The centralised data mechanism described above would be the logical starting point for that single data repository."

Question 4. Do you believe that data sharing through the abovementioned centralised mechanism consolidating the data would improve supervision by NCAs, NRAs, ESMA and ACER?

- (x) Yes
- ( ) No
- ( ) Don't know / no opinion / not applicable

Please explain in which way it would improve supervision by NCAs, NRAs, ESMA and ACER:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AFME members support the following ISDA/FIA response to Question 4:
"A centralised data collection mechanism would help to improve data quality and minimise errors and/or inaccuracies in reported data, for the consumption of the regulators, which could improve market abuse and systemic risk detection and supervision. Improved data quality could result in less supervisory requests for additional information. Additionally, the various regulators engaged in this effort, could collaborate to create

synergies in their data quality analysis, completeness of reporting across regimes, and a review of exclusion of dual/duplicative reporting under REMIT and EMIR. Combining single format reporting and a single data repository also has the potential to make the regulators' requests and reviews more comprehensive by nature, allowing them to identify potential gaps faster and combine forces across regulatory bodies to enhance market abuse detection capabilities.
However, as stated consistently in our previous questions, we strongly oppose the implementation of any such mechanism in a way that adds to the burden on market participants."

Question 5. In the event that the centralised reporting mechanism is deemed an appropriate measure, by what entity should energy spot and derivatives markets data be consolidated?

Please select as many answers as you like

- [ ] by trade repositories
- [ ] by RRM
- [ ] by a new type of entity in charge of consolidating data collected by trade repositories and RRMs
- [x] some other entity

Please specify to what other entity(ies) you refer in your answer to question 5:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AFME members share the following ISDA/FIA response to Question 5:
"As proposed in our responses to Q1 & 3, a new specialised entity could be created specifically for the task of consolidating data collected by trade repositories and RRMs, provided its integration with existing regulatory frameworks is managed without requiring action from market participants.
The main scope of the mandate of this entity would be to streamline data consolidation without creating additional data collection requirements or duplicating reporting obligations for market participants. This new entity should, therefore, exclusively act as an aggregator of the data already submitted to these repositories and mechanisms, ensuring that the data is complete, harmonised, and readily accessible to physical and financial regulators.
Placing the obligation to integrate this entity with existing regulatory frameworks on the supervisory body tasked with its implementation would allow the data it collects to be consumed as each new framework is integrated, without disruption to existing reporting activities.
Longer term, should a "report once" framework as contemplated in our answer to Q1 prove to be feasible, this entity could serve as the repository for such a reporting framework, as suggested in our response to Q3. This can be seen as implementing option (c) in the second of our proposed three phases, which in turn could eventually evolve into option (d) in the third phase."

Please explain your answer to question 5:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 6. Do you believe there is a better alternative to a central data collection mechanism for improving collection and sharing of data collected under REMIT and MiFID/MiFIR/EMIR?

- ○ Yes
- ● No
- ○ Don’t know / no opinion / not applicable

Please explain your answer to question 6:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Please see our answers to Questions 1, 3 and 5.

Question 7. In the event that the centralised reporting mechanism is deemed inappropriate, should an alternative approach be considered whereby NCAs have systematic access to the ACER central REMIT database, and vice-versa?

- ● Yes
- ○ No
- ○ Don’t know / no opinion / not applicable

Please explain your answer to question 7:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AFME members support the following ISDA/FIA response to Question 7:
“The Associations reiterate that a primary consideration should be to avoid requiring any further implementation and ongoing effort from market participants.
If some other approach can be devised to enable supervisory authorities to have systematic reciprocal access to each other’s databases, without imposing additional burden on market participants, this would be acceptable.”

Question 8. Do you believe that the rules on pre- and/or post-trade transparency (i.e., public dissemination of information on quotes and transactions) of commodity derivatives under MiFID/MiFIR should be amended, notably to include commodity derivatives traded on an MTF or an OTF

It is worth noting that making commodity derivatives subject to pre-trade transparency would imply that commodity derivatives would be included in the consolidated tape for OTC derivatives.

- ○ Yes
- ● No
- ○ Don't know / no opinion / not applicable

Please explain why you think these rules should not be amended:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AFME members support the following ISDA/FIA response to Question 8:

"The Associations strongly oppose the extension of pre- and post-trade transparency under MiFIR to commodity derivatives traded on MTFs and OTFs.

Exchange traded commodity derivatives are already subject to pre- and post-trade transparency under (respectively) MiFIR Articles 8a and 10.

Prior to the MiFIR Review, commodity derivatives traded on MTFs and OTFs were in scope of pre- and post-trade transparency precisely by virtue of being traded on these trading venues. The Review concluded (in Regulation (EU) 2024/791, Recital 8) that the scope of derivatives transparency should not rely on the concept of "traded on a trading venue" due to the lack of fungibility of these contracts. Instead, transparency requirements should only apply to those derivatives that are sufficiently standardised for the data published in relation to them to be meaningful for market participants beyond the contracting parties. Other than exchange-traded derivatives, it was deemed that only derivatives that are subject to the clearing obligation under EMIR should be subject to transparency requirements, plus credit default swaps that reference global systemically important banks (G-SIBs), and only where these are centrally cleared. It should be noted that the G-SIB criterion results in a small number of contracts that are highly standardised and homogeneous, irrespective of whether they are traded on or off venue. It should be further noted the MiFIR review acknowledged that the liquidity of a class of instruments should be a material factor in the transparency or otherwise of that class of instruments, as poorly calibrated transparency for illiquid instruments causes undue risk to liquidity providers. Only derivatives that are subject to the clearing obligation under EMIR have the requisite level of standardisation and liquidity to make it truly appropriate that they should be subject to transparency requirements under MiFIR. It should also be noted that the scope of transparency for interest rate derivatives is even further restricted to the most liquid and standardised currency and tenor combinations that are in scope of the clearing obligation. These criteria are codified under MiFIR Article 8a (2).

Therefore, any commodity derivatives traded on MTFs and OTFs should only be considered for inclusion within the scope of pre- and post-trade transparency requirements under MiFIR at such time as, and to the extent that, such commodity derivatives have been included in the scope of the clearing obligation under EMIR. This relates to the need to factor in counterparty credit-risk considerations, which mandatory clearing addresses, as otherwise derivatives may be legitimately subject to different pricing depending on a counterparty’s credit risk profile. However, in order to mandate clearing of products such products must be suitable for mandatory clearing hence subject to sufficient standardisation and liquidity. As of now, regulators have not expanded mandatory clearing beyond certain interest rate and credit derivatives, as no other derivatives have been assessed as suitable.”

Answer to question 8.1: "No. The Associations would submit that the general criteria required to bring financial instruments into the scope of transparency under MiFIR should apply equally to any transparency regime under REMIT, were this to be introduced: namely, a high degree of standardisation and liquidity. With respect to REMIT products, it is not clear what applying pre or post transparency requirements would achieve or be used for, e.g. investor protections are not really required as they are largely professionally traded (i.e. wholesale energy products)."

Question 9. Do you believe that the consolidated tape should include pre- and /or post-trade data on exchange-traded commodity derivatives (i.e. commodity derivatives traded on regulated markets)?

- ○ Yes
- ● No
- ○ Don’t know / no opinion / not applicable

Please explain your answer to question 9:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AFME members support the following ISDA/FIA response to Question 9:
“The Associations note that under MiFIR, there is no provision for a consolidated tape for exchange-traded derivatives of any type. There is only a consolidated tape for OTC derivatives specified, and that is restricted to post-trade data and will likely only cover certain interest rate swaps. Consolidated tapes have been the focus of the recent MiFIR Review, with a view to address fragmented trading in securities. With respect to ETD traded commodity derivatives, fragmentation is not as severe as in security markets hence the objective of consolidated tapes may not apply to ETD commodity derivatives markets. Furthermore, OTC pricing makes use of highly liquid reference contracts (such as the TTF) based on transaction data hence any application to OTC derivatives may also be of no added value.”

Question 10. The recent MiFIR review has extended reporting requirements for transactions in some OTC derivatives that are executed outside of a trading venue. This extension does not concern commodity derivatives.

Do you believe that transactions in OTC commodity derivatives that are executed outside of a trading venue should be subject to systematic reporting to NCAs under MiFIR?

- ○ Yes

- [x] No
- [ ] Don't know / no opinion / not applicable

Please explain why you think these transactions should not be subject to systematic reporting to NCAs under MiFIR:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AFME members support the following ISDA/FIA response to Question 10:

"The Associations note that transactions in certain OTC derivatives that are executed outside of a trading venue were already in scope of transaction reporting prior to the MiFIR Review, and remain in scope post the Review, under Article 26(2)(b) and (c). These are transactions in a financial instrument where the underlying is a financial instrument that is traded on a trading venue, or where the underlying is an index or a basket composed of financial instruments that are traded on a trading venue (collectively often referred to as "uTOTV" instruments). This would include transactions in commodity derivatives executed outside of a trading venue if they were to meet these criteria.

The Associations therefore understand this question to refer to those transactions brought into scope under MiFIR Article 26(2)(d), which in turn brings into scope those OTC derivatives identified in Article 8a(2).

The rationale for restricting the scope of OTC derivatives executed off-venue under MiFIR Article 26(2)(d) is the same as one part of the reason for restricting the scope of OTC derivatives to be made transparent under Article 8a(2): namely, the lack of value of reporting of non-standardised instruments.

The Associations are not opposed in principle to the scope of transaction reporting under MiFIR being further extended, provided that, as envisaged in the MiFIR review, the scope remains restricted to instruments standardised to a degree sufficient to make the data consequently gathered in transaction reports of value; and provided that any extension aligns with the Commission's own objectives of simplification and burden reduction.

However, the scope of transaction reporting of OTC derivatives under MiFIR Article 26 must not be extended by simply increasing the scope of transparency for OTC derivatives under MiFIR Article 8a, unless those OTC derivatives meet the criteria for inclusion in the scope of transparency under its own merits, as outlined in our answer to Question 8.

To simply add additional OTC commodity derivatives into Article 8a(2) for the purposes of their consequent inclusion in Article 26(2)(d) would cause undue risk to the providers of liquidity in those OTC commodity derivatives.

In addition, many energy derivatives traded over the counter are physically settled and are already subject to reporting under both EMIR and REMIT. Current exemptions already apply under EMIR to avoid double reporting between EMIR and REMIT. We believe adding another requirement under MiFIR will just add another layer of reporting without real benefit to the regulator, as they will already receive the reporting data under both EMIR and REMIT reporting regimes."

Question 11. Do you believe ESMA has sufficient access to transaction data from trading venues and from market participants reported to NCAs?

- [ ] Yes
- [x] No
- [ ] Don't know / no opinion / not applicable

Please explain what are the consequences of this situation and how you believe this should be tackled:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AFME members support the following ISDA/FIA response to Question 11:
"While the Associations believe that all the data ESMA should need is available through transaction reporting from trading venues and market participants via various regimes, at both execution and clearing level for both cash and physical delivered products, we do not have visibility of what access ESMA has to all these data.
We recommend that this is examined as part of the wide-ranging review we propose in our answer to Q1, and that any gaps are addressed as an outcome of that review."

2. Ancillary activity exemption

Commodity derivatives markets are characterised by the prominent participation of 'commercial entities' (i.e., entities whose main business does not involve engaging in the provision of financial services), who rely on derivative markets to hedge their positions in the underlying physical markets or, in some cases, take advantage of market moves to generate profit. Those non-financial entities represent around two-thirds of natural gas futures markets participants (see ESMA's preliminary data report on the introduction of the market correction mechanism), and around 60% on wheat futures markets (see the analysis of MIFID II position data on commodity derivatives: who are the market participants and what is their weight in the matif grain derivatives segment), in terms of positions in the respective markets. Some non-financial entities also act as market makers, and are also usually active on both physical/spot and derivatives markets.

The so-called Ancillary Activity Exemption (AAE) set out in Article 2(1), point (j), of MiFID currently exempts certain non-financial market participants that engage in commodity derivatives trading from obtaining a MiFID authorisation if this trading activity is done on own account and not linked to the execution of client orders, or if it provides investment services in commodity derivatives or emission allowances or derivatives thereof to customers or suppliers of their main business. Such exemption is also only granted provided that the activity is considered "ancillary" to their main business, individually and on an aggregate basis.

Three alternative tests allow to determine whether a firm's activity is ancillary to its main business:

- the *de minimis test*, for entities whose net outstanding notional exposure in commodity derivatives or emission allowances or derivatives thereof for cash settlement traded in the Union, excluding commodity derivatives or emission allowances or derivatives thereof traded on a trading venue, is below an annual threshold of EUR 3 billion
- the *trading test*, for entities whose size of activities relating to commodity derivatives accounts for 50% or less of the total size of the other trading activities of the group
- the *capital employed test*, for entities whose estimated capital employed for carrying out their activities relating to commodity derivatives accounts for not more than 50% of the capital employed at group level for carrying out the main business

The qualification as investment firm under MiFID has broad implications, as it does not only imply the application of the MiFID organisational and operational requirements (and the associated supervisory role and sanctioning powers of NCAs), but also entails a qualification as financial counterparty under Regulation (EU) 648/2012 (EMIR), notably with the associated requirements in terms of exchange of bilateral margins when engaging in derivatives trading, and the application of the prudential regime under Regulation (EU) 2019/2033 (Regulation on the prudential requirements of investment firms, IFR) and Directive (EU) 2019/2034 (Directive on the prudential requirements of investment firms, IFD), including the associated capital and liquidity requirements. It is however noteworthy that a number of key requirements under the financial rulebook are applicable to all persons, regardless of whether they qualify as investment firms. This includes requirements relating to market abuse and position limits.

In 2021, the Capital Markets Recovery Package (CMRP) introduced a number of changes in order to reduce some of the administrative burdens that experienced investors face in their business-to-business relationships, and to provide opportunities to nascent commodities markets to further develop, deepen, and improve their liquidity. Regulation (EU) 2021/338 has simplified the test for the AAE, through the introduction of the abovementioned exposure-based *de minimis* threshold. The obligation for market participants to notify every year their fulfilment of the AAE criteria has also been removed, and replaced by a possibility for NCAs to require information on an ad-hoc basis.

Questions related to section 2

In providing your answers under this section, please specify, to the extent relevant, **whether your assessment would differ depending on the type of commodity concerned** (agricultural, gas, electricity) or when considering EUA markets specifically.

Question 12. The exception under Article 2(1), point (d), of MiFID sets out the conditions under which entities that deal on own account in financial instruments *other* than commodity derivatives are exempted from a MiFID license. In particular, this exemption does not require that this activity is ancillary to the entity's main business, unlike what is required for entities dealing on own account in commodity derivatives under point (j) of the same Article. However, the exemption under Article 2(1), point (d), is subject to different limitations.

Do you believe persons dealing on own account in commodity derivatives should be treated the same way, with a view to benefit from a MiFID exemption, as persons dealing on own account in other financial instruments, in particular in not requiring that trading activities are ancillary to a main business?

- Yes
- No
- Don't know / no opinion / not applicable

Question 13. Under Article 2(1), point j of MiFID, an entity can provide investment services other than dealing on own account in commodity derivatives or emission allowances or derivatives thereof to its customers or suppliers of its main business without a MiFID authorisation, provided that the provision of such investment services is ancillary to its main activity.

Do you believe that this exemption as regards the provision of investment services to customers or suppliers is fit for purpose?

- Yes
- No
- Don’t know / no opinion / not applicable

Question 14. Do you currently benefit from the AAE?

- Yes
- No
- Don’t know / no opinion / not applicable

Question 15. More generally, how do you assess the impact of the CMRP amendments and their application by NCAs on your activity, if any?

Could you provide estimates of any cost savings and clarify their sources?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 16. What impact do you believe the alleviations brought to the AAE by the CMRP had on the liquidity and depth of EU commodities markets, if any?

Could you provide any order of magnitude, for instance in terms of open interest, volumes, number and diversity of participants, bid/ask spreads, etc.?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 17. What is the most effective and efficient method to ensure that supervisors can monitor compliance with the requirements of the AAE?

In particular, do you believe the abolishment of systematic (annual) notification from beneficiaries of the AAE to NCAs should be maintained or should these notifications be re-introduced? Please explain. Could you quantify costs if they were to be reintroduced?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 18. In general, do you believe that the existing AAE criteria are fit for purpose and allow to adequately identify when a trading activity in the commodity derivatives markets is ancillary to another activity (i.e., allows to bring the right type of entities into the MiFID regulatory perimeter)?

- Yes
- No
- Don't know / no opinion / not applicable

Question 19. In which of the following aspects – if any – does the current scope of the AAE raise issues?

Please select as many answers as you like

- [ ] adequate conduct supervision of firms active in commodity derivatives markets and enforcement of the financial rulebook (e.g., for the purpose of monitoring market abuse)

- fair competition between market participants
- impact on energy prices
- liquidity of the commodities derivatives market
- safeguarding prudential and resilience aspects of firms benefitting from the AAE
- ability to monitor and identify future risks to financial stability (e.g., related to interconnectedness and contagion)

Please explain your answer to question 19:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 20. Do you believe the *de minimis* test should be broadened by counting the following towards the EUR 3 billion threshold?

	Yes	No	Don't know - No opinion - Not applicable
trading activity in derivatives traded on a trading venue?			
trading activity in physically-settled derivatives?			

Question 21. The *de minimis* test threshold is based on exposure in commodity derivatives ‘traded in the Union’. Is this criterion on the location of trades fit-for-purpose?

- Yes
- No
- Don’t know / no opinion / not applicable

Please explain your answer to question 21:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 22. Currently, the *de minimis* test threshold under MiFID is calculated on a net basis (i.e., by averaging the aggregated month-end net outstanding notional values for the previous 12 months resulting from all contracts). However, other jurisdictions use a gross trading activity threshold instead.

Do you believe that it would be more appropriate for the *de minimis* test threshold under MiFID to be calculated on a gross basis, so as to measure absolute trading activity?

- Yes
- No
- Don't know / no opinion / not applicable

Question 23. Currently, MiFID contains a single *de minimis* test threshold for all types of commodities derivatives.

Do you believe the *de minimis* test threshold should differ depending on the type of commodity derivative market considered (e.g., energy derivatives vs agricultural derivatives)?

- Yes
- No
- Don't know / no opinion / not applicable

Question 24. Currently the *de minimis* test threshold under MiFID is calculated including trading in commodity derivatives for an entity's own account. However, other jurisdictions exclude those transactions, and focus on dealing for the benefit of a third-party.

Do you believe the *de minimis* test should continue to include, or instead exclude, all trading activity carried out for an entity's own benefit (proprietary trading), so as to only rely on dealing activities for the benefit of a third party /client?

- Yes
- No
- Don't know / no opinion / not applicable

Question 25. Considering the introduction of the*de minimis*test following the CMRP, and with a view to further simplifying the AAE, do you believe that the AAE could be made less complex by:

	Yes	No	Don't know - No opinion - Not applicable
abolishing the trading test			
abolishing the capital employed test			
through other types of amendments			

Question 26. If your entity currently benefits from the AAE, and should your entity not be in a position to benefit from the AAE following a review of the criteria, could you please provide an assessment of the impact of being qualified as investment firm on your operations, and on your ability to maintain active participation in commodity derivatives markets?

If possible, please include a quantitative assessment of the costs incurred by such a qualification and all its implications.

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 27. To what extent do you believe the application of IFR/IFD prudential requirements, including those resulting from relevant Level 2 measures, as well as dedicated prudential supervision on all energy commodity derivatives traders, would have avoided or at least partially avoided the liquidity squeeze that such market participants suffered from during the 2022 energy crisis?

To what extent would it have limited the need for public intervention providing some of them with the necessary liquidity to meet requirements on margin calls?

Please substantiate your answer with quantitative elements, to the extent possible.

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 28. If a review of the AAE were to lead to more entities being in scope of MiFID (and also thereby in scope of IFR/IFD):

Question 28.1 Do you believe that the current categorisation in IFR/IFD (i.e., three categories of investment firms) should apply to those entities? Should instead a *sui generis* category be created for those entities newly covered by prudential requirements?

- Yes
- No
- Don’t know / no opinion / not applicable

Question 28.2 Do you see merit in a decoupling, such that it triggers the application of MIFID (including its relevant provisions on supervision), without bringing those firms directly in scope of IFR/IFD (i.e. prudential regulation)?

- Yes
- No
- Don’t know / no opinion / not applicable

Question 28.3 Do you consider that all or only some MiFID requirements should apply?

- Yes
- No
- Don’t know / no opinion / not applicable

Question 29. Assuming a review of the AAE that would tighten the access to the exemption, what would you expect to see in terms of effects on trading and liquidity?

What about the opposite scenario (meaning a widening of the exemption)?

Please explain, providing if possible quantitative analysis (in terms of impact on open interest, volumes, number and diversity of participants, bid/ask spreads.):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 30. What do you believe would be the expected effect(s) of a reviewed AAE on commodities prices (e.g., energy, agricultural commodities), depending on the changes implemented (tightening or loosening of the AAE)?

Please explain:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

3. Position management and position reporting

Position management and position reporting are two key features of the MiFID framework that allow trading venues to maintain orderly trading, and NCAs to monitor market trends and prevent potential market manipulation. They are also instrumental in the enforcement of position limits, for those contracts that are subject to them.

3.1 Position management

Article 57(8) of MiFID requires that exchanges and other trading venues trading in commodity derivatives have arrangements in place to monitor the open interest positions of persons trading on their venue.

It notably allows trading venues:

- to request information from market participants on 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
- to request a person to terminate or reduce positions, or to take direct action in case the person does not comply with said request
- to request a person to provide liquidity back into the market to mitigate the impact of a large or dominant position

3.2 Position reporting under MiFID

3.2.1 Reporting from market participants to trading venues

Position management controls are complemented by position reporting requirements included in Article 58(3) of MiFID which aim, among others, at providing trading venues with the necessary information to implement their position management mandate. Market participants are thereby required to submit to the trading venues they are trading on the details of their positions held in the contracts traded on that venue.

However, currently trading venues do not have access to a full set of information on the positions that their market participants build in OTC derivative instruments related to the same market/underlying. Notably, they do not get information on positions in OTC or C6 carve-out contracts that are connected to the venue-traded contract considered, despite the fact that market participants can build significant positions through OTC transactions. Currently, positions in the OTC derivatives are obtained on an ad hoc basis[1]. However, the recent events that occurred at the London Metal Exchange (LME) suggest that positions obtained through OTC contracts can have a significant and direct impact on orderly trading on trading venues and on the functioning of markets in general.

Trading venues also do not receive any position reporting from market participants on positions in the same contract opened through trading on a different venue (in situations where the same contract is traded on different venues, as is the case for Dutch Title Transfer Facility (TTF) gas futures). This can notably cause difficulties in enforcing position limits, as positions in the same and economically equivalent OTC contracts are to be aggregated regardless of where the positions have been built (all venues + economically equivalent OTC contracts), to effectively assess whether an entity breaches the position limit or not.

This section therefore explores whether it is necessary, for the effective enforcement of position management controls by trading venues, that operators of such venues gather comprehensive and more systematic data on positions of market participants, beyond those traded on their venue, including those traded OTC. Potential solutions could be specific to certain types of contracts or commodities (e.g., gas).

---

[1] According to MiFID Article 57(8), point (c), in the context of their position management controls, venues are entitled to '*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 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*'. Moreover, according to MiFID Article 58(3), market participants are required to report to the trading venue, at least on a daily basis, their positions held through contracts traded on that trading venue.

3.2.2 Reporting from market participants and trading venues to NCAs

Similarly, securities markets supervisors do not receive exhaustive information over all positions of market participants. Currently, pursuant to Articles 58(1) and (2) of MiFID, securities markets supervisors only gather information on venue-traded instruments (via the trading venues) and in economically equivalent OTC contracts (via investment firms directly). Currently, position reporting to NCAs does not comprise positions in the spot underlying market, nor positions in physically-settled wholesale energy contracts contracts traded on an OTF (i.e., C6 carve-out products).

3.3 Exposure reporting under REMIT

The revised REMIT introduced for the first time an obligation for market participants to report their exposures, detailed by product, including the transactions that occur OTC.

The Commission is currently in the process of detailing such reporting obligations in the REMIT Implementing Regulation.

Questions related to section 3

In providing your answers under this section, please specify, to the extent relevant, **whether your assessment would differ depending on the type of commodity concerned** (agricultural, gas, electricity) or when considering EUA markets specifically.

Question 31. Currently, under MiFID, reporting from market participants to trading venues on the positions held in instruments traded on those venues is performed by market participants themselves.

Do you believe that this reporting could be carried out by clearing members, as it is the case in other jurisdictions, so as to reduce the burden on individual market participants and to enhance accuracy and completeness of reporting?

- ○ Yes
- ● No
- ○ Don’t know / no opinion / not applicable

Please explain your answer to question 31:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Clearing members currently have to provide similar reporting to exchanges, who are typically required to be market participants of the trading venues in respect of which they clear. It should be feasible for clearing members to also provide position reporting as required under MiFID. However, bearing in mind other questions regarding reporting of final end users in this consultation, we note that clearing members are not in possession of this information. Should the disclosure of end user identities be identified as a key requirement, then transferring reporting obligations to clearing members may mitigate against that. If such obligations are to be imposed, then clearing members should have responsibility for the accuracy and completeness of reporting. While clearing members undertake such reporting in the US, this would be a new requirement for clearers and other market participants in the EU and would require a transitional period and

would require implementation and set up costs by both market participants and clearers at a time when market participants are bearing the costs and burden of other regulatory change, so we would urge careful consideration of the timing of imposition of any such obligation.
In addition, we would note that some of the specific fields clearing members are required to provide may create a disproportionate burden for financial institutions, as they rely on clients for this information. Examples of such fields include: Position Holder Category, Position Holder Contact Email, Parent Position Holder Category, and Parent Position Holder Contact Email.

Question 32. In which of the following cases should venues trading in commodity derivatives receive the full set of information on positions of market participants trading on their venues?

Please select as many answers as you like

- [x] positions held in critical or significant contracts based on the same underlying and sharing the same characteristics, traded on other trading venues
- [ ] OTC contracts that relate to the same underlying
- [ ] related C6-carve-out contracts
- [ ] positions in the underlying spot market

Please explain how the information can be collected by trading venues and reported in the most cost-efficient way:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AFME members oppose any obligation on members of trading venues to provide the full set of position data for any of the listed cases on a regular or systematic basis as part of the standard position reporting requirements.
In particular, we have significant concerns about introducing a formal requirement for market participants to report to trading venues information on their positions in related OTC derivative contracts. AFME members have expressed concerns regarding reporting to trading venues information on their positions in related contracts traded on overseas trading venues. This is largely due to:
1. Confidentiality and other prohibitions on disclosure: where information is reported under contractual obligations to private commercial undertakings, rather than under statutory obligations to a regulator or other authority. In particular, on reporting positions on overseas venues, we expect that such exchanges will object to positions in their contracts being systematically reported to their competitors as a matter of principle. We would point out that in the U.S. such reporting goes straight to the CFTC rather than the exchanges.
2. Competition law issues: trading venue members may have concerns about competition law issues where trading venues are able to access information on trading activity taking place outside of their venue. These issues may arise with respect to OTC positions entered into by participants outside of the relevant venue, as well as positions entered into on non-EU trading venues. […] If EU trading venues are obtaining this information through their participants, they may obtain a competitive advantage and potentially trigger retaliatory action by other venues or their regulators (e.g., prohibiting local entities from providing the information).
3. Competitiveness of EU markets: We are concerned that the proposal may have a negative impact on the competitiveness of EU markets and may discourage participation in EU trading venues by non-EU participants. Should additional OTC reporting requirements be introduced, the EU would have one of the

most onerous regimes as well as multiple position reporting requirements which may act as a barrier to entry for some market participants, making it preferable to trade OTC or on non-EU venues.

4. Increased complexity of the regime: Introducing a mandatory requirement for OTC position reporting to trading venues would run counter to the European Commission's objectives of simplifying and reducing the burden of regulatory reporting. Such a measure would force market participants to navigate multiple, and potentially conflicting, reporting regimes, resulting in greater administrative burdens and operational inefficiencies. Furthermore, exchanges already have the authority to request information on OTC positions related to positions held on their venue. This calls into question the added value of the proposed requirement, given the significant costs it would impose on investment firms, underlying clients, and trading venues, all of whom would need to develop new systems to create, report, and manage this data.

Instead, we consider that a more viable and practical approach would be for trading venues to have the discretion to require this information from their members where they have concerns about specific OTC positions related to a contract traded on their venue under specified circumstances, for example where there is a tangible risk of a disorderly market or in extreme stressed market scenarios. This should operate subject to the requirements of competition law and statutory or other regulatory limitations imposed by overseas public bodies, for a) positions held in critical or significant contracts based on the same underlying and sharing the same characteristics, traded on other trading venues; and b) OTC contracts that relate to the same underlying.

Trading venues are best placed to determine where such information is necessary to operate a targeted and risk-based approach that focuses on off-exchange information that is actually relevant to the health of a critical contract and positions held in it.

Finally, we note that it would not be possible to apply this requirement to C6-carve-out contracts under MiFID as it stands. While it may appear superficially attractive to amend MiFID to include these contracts in the scope of financial instruments, we caution against doing this without a thorough review of what the other consequences would be of bringing them into the wider scope of MiFID and MiFIR and across all other regulations that cross-refer to the definition of financial instruments. This would also include the duplication of regulatory requirements when such contracts fall within the scope of REMIT II.

Please specify what your preferred option would be:

- ○ imposing additional reporting requirements on market participants (to trading venues)
- ○ achieving this through alternative means, such as by leveraging on the existing supervisory reporting channels (e.g., reporting to trade repositories or RRMs)
- ○ resorting to the single data collection mechanism as referred to in section 1
- ◉ don't know / no opinion / not applicable

Please clarify how your favourite option could be achieved and, if possible, please estimate the cost of additional data collection/reporting, to the extent relevant, for reporting entities.

Please identify whether this could lead to any double reporting under the (revised) REMIT (and as will be further detailed in the revised REMIT Implementing Regulation)?

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 33. With a view to enhancing the supervision of commodity derivatives markets, do you believe that both energy (where relevant) and securities markets supervisors (ACER, NRAs, ESMA, NCAs, collectively competent authorities) should have access to information on market participants active in derivates markets as regards their positions in:

	Yes	No	Don't know - No opinion - Not applicable
C6-carve-out contracts	◉	○	○
the underlying spot market	◉	○	○

Please explain whether your reply differs depending on the type of underlying commodity considered:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Please specify what your preferred option would be:

- ○ imposing additional reporting requirements on market participants (to competent authorities)
- ○ through alternative means, such as by leveraging on the existing supervisory reporting channels, when they exist (e.g., REMIT reporting)
- ◉ as regards energy derivatives, by granting competent authorities access to the single data collection mechanism as referred to in section 1
- ○

don’t know / no opinion / not applicable

Please explain how the information can be collected by competent authorities and reported in the most cost-efficient way:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AFME members support enhanced information sharing between energy and securities market supervisors. However, we do not see the need for additional reporting requirements, as these could lead to unnecessary duplication. Market participants are already making both their physical and financial trading information available to the relevant regulatory bodies.

We further note that there are arrangements in place to allow data sharing, such as the memorandum of understanding between ACER and ESMA of 6 March 2023.

We consider that these arrangements are sufficient and that any such sharing of information should be with respect to instruments that fall under the jurisdiction of both the energy regulators and financial services regulators e.g. gas and power derivatives. We are concerned regarding the sharing of data regarding C6 carve out contracts and the spot market between ACER/ NRAs and ESMA/ NCAs to the extent they do not relate to instruments or regulation within the jurisdiction of ESMA/NCAs blurs the distinction between REMIT II and financial services regulation. Our members do not believe that additional reporting requirements are needed for this purpose, such additional requirements would carry a risk of duplicating reporting and would contradict the Commission’s broader objectives of simplification and reducing regulatory burdens.

Question 34. With a view to enhancing the supervision of wholesale energy markets, do you believe that energy markets supervisors (ACER, NRAs) should have access to information on market participants active in wholesale energy markets as regards their positions in instruments subject to position reporting under MiFID?

- Yes
- No
- (x) Don’t know / no opinion / not applicable

Please explain whether your reply differs depending on the type of underlying commodity considered:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Please explain your answer to question 34:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

This is question that should be addressed to ACER / NRAs.

Question 35. The reporting of positions in economically equivalent OTC contracts under Article 58(2) of MiFID applies to investment firms only.

Do you believe this requirement should be extended to all persons (like the position limit regime)?

- ○ Yes
- ○ No
- ● Don’t know / no opinion / not applicable

Please explain your answer to question 35:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

All AFME members are classified as investment firms.

Question 36. In your view, is the current definition of ‘economically equivalent OTC derivatives’ under MiFID fit for purpose?

- ● Yes
- ○ No
- ○ Don’t know / no opinion / not applicable

Please explain your answer to question 36:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We do not believe that any changes are required.

Question 37. MiFID requires that position reporting specifies the end-client associated to the positions reported. However, the legal construction of the current position reporting framework entails that, for positions held by third-country firms, such third-country firms are to be considered the end-client. This prevents the disaggregation of positions held by those third-country firms, and therefore the identification of the end-clients related to those positions.

Does the lack of visibility by NCAs and/or by trading venues of the positions held by the beneficial owner (end client) when that position is acquired via a third-country firm raise issues in terms of proper enforcement of position limits and, in the case of trading venues, of their position management mandate?

- ○ Yes
- ○ No
- ◉ Don’t know / no opinion / not applicable

Please explain your answer to question 37:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

This is question that should be addressed to NCAs.

Should the position reporting framework be amended to specify that non EU-country firms also have to report who is the end-client linked to the position they hold in venue-traded commodity derivatives and/or economically equivalent OTC derivatives?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

No.
We acknowledge the European Commission’s goal of enhancing transparency in commodity derivatives markets and support efforts to ensure robust position reporting frameworks.
That said, we are concerned that obliging non-EU firms to disclose the identities of their end-clients would be both impractical and problematic. In many non-EU jurisdictions, client confidentiality is protected by stringent data privacy and banking secrecy laws. These legal frameworks may prohibit the disclosure of underlying client identities – even to foreign regulatory authorities – placing non-EU firms at risk of breaching domestic legal obligations if such a requirement were enforced.

Moreover, the existing reporting framework already captures positions at the level of the non-EU entity. When necessary, national competent authorities have tools at their disposal, such as cooperation agreements or bilateral arrangements, to seek further information. This targeted approach is more proportionate than a blanket obligation for all non-EU participants.
Finally, implementing such a requirement could have unintended consequences, including deterring non-EU firms from participating in EU commodity derivatives markets. This could lead to reduced liquidity and a weakening of the markets' price discovery function.

4. Position limits

Article 57 of MiFID contains a number of rules that constrain the size of a net position which a person can hold at all times in certain commodity derivatives contracts. Position limits in MiFID do not apply to EUAs nor to derivatives on EUAs.

As the initially introduced position limit regime under MiFID had proved to be overly restrictive, negatively affecting the development of in particular new commodity derivatives markets, notably energy derivatives, the CMRP adopted in 2021 introduced significant alleviations to that regime. In particular, it reduced the scope of contracts subject to position limits only to agricultural commodity derivatives and to significant or critical commodity derivatives. Contracts are considered significant or critical when the size of their open interest is at a minimum 300,000 lots on average over one year.

Position limits for each of those contracts are set by NCAs, following principles set out in MiFID Level 2 legislation (Delegated Regulation (EU) 2022/1302), and following an opinion by ESMA. Positions in venue-traded and in economically equivalent OTC contracts are aggregated.

Position limits do not apply to contracts entered into for hedging purposes by non-financial entities (so-called ‘hedging exemption’). The CMRP extended the hedging exemption to positions taken by financial entities that are part of a predominantly commercial (i.e., non-financial) group, where the positions taken by those financial entities seek to reduce risks linked to the operations of commercial activities of the non-financial entity in the group. The CMRP also extended the exemption on position limits resulting from transactions entered into to fulfil obligations to provide liquidity on a trading venue (the ‘liquidity provision exemption’). Those two extensions were introduced with a view to further support the deepening of commodity – notably energy – derivatives markets in the Union.

Persons holding qualifying positions that wish to benefit from one of the abovementioned exemptions need to submit a formal request to the NCA that sets the position relevant for the considered commodity derivative contract.

The position limits regime also only applies to contracts that fall within the realm of the financial rulebook, and therefore excludes ‘C6 carve-out’ products.

This should be assessed against the background that, in other jurisdictions , trading venues play an overall greater role in the tailoring, application and monitoring of position limits. For instance, for those contracts not subject to federal position limits set by the Commodities and Futures Trading Commission (CFTC), trading venues are free to set the position limits they see fit. Similarly, exchanges play a greater role in granting hedging and other exemptions to market participants, applying the conditions set out in the CFTC order.

4.1 Particular case of natural gas derivatives

In the Union, TTF natural gas futures are currently the only listed non-agricultural futures contract subject to position limits. The TTF contract currently has a position limit of 25 050 960 MWh for the spot month and 153 017 049 MWh for other months (see ESMA's opinion of 1 July 2024 on position limits on ICE Endex Dutch TTF and EEX gas contracts). The position limits are expressed in MWh as the contracts available for trading, and covered by these limits, have different lot sizes (see ESMA's opinion of 20 December 2022 on position limits on ICE Endex Dutch TTF gas contracts.). The position limits apply irrespective of whether the contract is held to delivery or offset or settled prior to delivery. The position limit for TTF futures corresponds to 15% of the deliverable supply of natural gas to the Netherlands for the spot month, and 12.5% for other months.

In contrast, the laws governing the Henry Hub futures in the US have different position limits for physically settled and cash-settled derivatives. There is an initial 2000 contract limit for physically settled contracts, which can be combined with up to 8000 cash-settled contracts (2000 per exchange (cash-settled Henry Hub contracts are traded on three exchanges in the US) + 2000 in the OTC market). 2000 contracts at Henry Hub amounts to 25% of the deliverable supply at the Henry Hub. The differing limits for physically settled and cash-settled contracts are justified by the need to protect the physical delivery in the delivery month by avoiding that players take too large positions into the physical market. On the other hand, market participants that hold no physically settled contracts at all are allowed to increase their positions in cash-settled contracts. This is a specific rule for natural gas contracts called the "conditional spot month limit exemption" that increases the position limit for cash-settled contracts to 10 000 contracts.

Currently, there are no position limits in REMIT. However, as mentioned above, the position limit framework as set out in MiFID currently applies to TTF natural gas futures, as for the moment this is the only derivative contract that falls into the category of "significant" or "critical" commodity derivative.

In providing your answers under this section, please specify, to the extent relevant, whether your assessment would differ depending on the type of commodity concerned (agricultural, gas, electricity) or when considering EUA markets specifically.

Questions related to section 4

In providing your answers under this section, please specify, to the extent relevant, **whether your assessment would differ depending on the type of commodity concerned** (agricultural, gas, electricity) or when considering EUA markets specifically.

Question 38. What is your general assessment of the impact of position limits on the liquidity of commodity derivatives contract that are subject to them?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The strict application of position limits under MiFID II initially had a negative impact on market liquidity, particularly for contracts with lower trading volumes.
It significantly hindered the development of new, illiquid, and less liquid commodity derivative markets.
Fast-growing markets were especially affected due to:
1. The 2,500-lot de minimis threshold, which proved too restrictive as contracts approached 10,000 lots of open interest.
2. The limited flexibility in the rules for NCAs to respond to exceptional circumstances.
3. The slow process for setting and reviewing bespoke position limits.
However, the "Quick Fix" amendments to MiFID II – which introduced a more targeted approach, including exemptions for hedging activities and a focus on the most significant commodity contracts – have helped address some of these challenges. The current framework has enabled new and less liquid contracts to develop more successfully.
Overall, while overly stringent position limits can reduce market depth and efficiency, a well-calibrated approach can support both liquidity and market integrity.

Question 39. What is your general assessment of the impact of position limits on the ability of commercial (non-financial) entities to hedge themselves?

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The current hedging exemption from position limits works well and we support that it is retained in its current form with the current definition of hedging. The MiFID II Quick-Fix ensured that market participants /commercial hedgers are not unduly restricted.

Question 40. Do you believe that position limits under MiFID, as amended by the CMRP, have achieved their purpose of preventing market abuse and maintaining orderly trading?

- (x) Yes
- ( ) No
- ( ) Don't know / no opinion / not applicable

Please explain your answer to question 40:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The revised position limit regime was introduced after extensive consultation and data analysis by ESMA and the European Commission, concluding that overly strict position limits negatively affecting the development of new commodity derivatives markets, notably energy derivatives. The regime, as currently designed, focusses on significant commodities and prevents market manipulation, as intended.

Question 41. In your view, what was the impact of the reforms introduced by the CMRP (reduction of the scope of contracts subject to position limits, broadening of the hedging exemption to some financial entities, introduction of the liquidity provision exemption) on the liquidity and reliability of EU energy derivatives markets?

Please include any quantified impact in terms of open interest, volumes, number and diversity of participants, bid/ask spreads, etc.

In particular, do you believe that the extra flexibility introduced had an impact on market participants' ability to access hedging tools in smaller, less liquid markets (e.g., local electricity or gas hubs):

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Data from European energy exchanges, which has been made available to the European Commission, strongly suggest that the MiFID II Quick Fix reforms introduced under the Capital Markets Recovery Package (CMRP) had a positive impact on liquidity and market participation across EU gas hubs. Although graphical representations cannot be provided via the response form, the underlying data show a clear upward trend in open interest across several key hubs following the reforms.
Key observations include:
• A marked increase in open interest was recorded at major European gas hubs, including TTF (Netherlands), THE (Germany), PEG (France), PSV (Italy), ZTP (Belgium), PVB (Spain), CEGH VTP (Austria), and CZ VTP (Czech Republic). This rise occurred shortly after the ESMA forbearance statement and the application of the Quick Fix measures, indicating a strong temporal correlation between regulatory changes and increased trading activity.
• The growth in open interest points to improved hedging opportunities, particularly for commercial participants who were previously constrained by restrictive position limits. The expanded hedging exemption and the introduction of a liquidity provision exemption appear to have enabled more effective risk management.
• Smaller and less liquid hubs – such as CZ VTP, ZTP, and PSV – showed especially significant gains in open interest, suggesting that the reforms helped broaden access to energy derivatives markets beyond the largest trading venues.
• The data also indicate renewed market confidence and broader participation, with more diverse actors entering the market. This enhances both price discovery and resilience in the face of future market shocks.
It is further worth noting that many market participants and less liquid areas were already struggling under the previous position limits regime (as was evident prior to the adoption of the Quick Fix). The energy crisis further heightened uncertainty and drove participants to seek more secure trading environments and tools to manage counterparty and price risks. Had the pre-CMRP position limits framework still been in place during this period, many would have been unable to respond effectively to the challenges they faced.
In summary, the MiFID II Quick Fix reforms have contributed meaningfully to strengthening liquidity, improving hedging efficiency, and fostering a more inclusive and robust energy derivatives landscape in Europe.

Question 42. Do you believe that the current criterion to determine whether a contract is a ‘significant or critical contract’ is fit for purpose, and why?

- (x) Yes
- ( ) No
- ( ) Don’t know / no opinion / not applicable

Please explain your answer to question 42:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Yes, the current criterion to determine whether a contract is a significant or critical contract under MiFID is broadly fit for purpose. The revised framework under MiFID II/MiFIR ensures that position limits focus only on contracts that have a meaningful impact on the wider market, reducing the unnecessary regulatory burden on less liquid or niche contracts. In more detail this approach works because:
1. The framework applies position limits primarily to critical or significant contracts, which are those with substantial open interest and trading activity. This ensures that regulatory efforts target contracts where excessive speculation or concentration of positions could pose risks to price discovery or market stability.
2. By limiting position limits to key contracts, the rules avoid unnecessary constraints on smaller, less

liquid contracts, where position limits could have a disproportionate impact on market functioning. This supports liquidity in niche markets without compromising oversight of major benchmarks.
3. The EU's decision to focus position limits on critical or significant contracts aligns with international regulatory trends, avoiding an overly prescriptive regime that could make European markets less competitive compared to other jurisdictions.

Question 43. In your view, under the current position limit regime, could there still be scope for traders of some commodity contracts (spot or derivative) to use their positions in commodity derivatives with a view to unfairly influence prices or secure the price at an artificial level?

- [ ] Yes
- [x] No
- [ ] Don't know / no opinion / not applicable

Please explain your answer to question 43:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The system that is currently in place is considered to be very effective by market participants. Additionally, for non-critical or significant commodity contracts that fall outside the strict position limits framework, MiFID II already includes a robust position reporting regime. This provides market oversight while ensuring transparency and enables early identification of any emerging market manipulations without the rigidity of position limits, allowing for more flexible and effective oversight.
We consider that the combination of MAR, REMIT II and the position limit regime under MIFID II is sufficient to combat the risk of unfairly influencing prices or securing the price an artificial level.

Question 44. Contracts with the same underlying and same characteristics subject to position limits are sometimes traded on several trading venues.

Do you believe that the level of the position limit for those contracts should be set at European level (e.g., by ESMA), as opposed to the NCA responsible for the supervision of the main trading venue for that contract?

- [ ] Yes
- [x] No
- [ ] Don't know / no opinion / not applicable

Do you believe ESMA should be in charge of monitoring and enforcing the position limits for those contracts?

- [ ] Yes
- [x]

No

Don’t know / no opinion / not applicable

Please explain your answers to question 44:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Position limits should be determined by the authority closest to the market – under current rules, this means the NCA overseeing the trading venue where the highest volume is transacted. However, if trading volumes shift between venues, leading to a change in the responsible NCA, a transition period should be implemented before the new NCA sets the limit. This would help prevent market disruptions. If ESMA were to set the limit instead, the process would likely be less flexible and slower to adapt to shifts in market conditions, potentially increasing volatility or exacerbating stress in the market. A relevant example of a contract traded across multiple venues is TTF, where the current approach – position limits set by the NCA – has proven effective.

Question 45. Some jurisdictions only apply position limits to physically-settled futures. Once captured by the position limits, cash-settled versions of those contracts however also count towards the position limits. This means that futures that are not physically-settled (e.g., futures on power) cannot be captured by the position limit regime in those jurisdictions.

Do you believe that position limits in the EU should only apply to futures contracts that are physically-settled?

- Yes
- (x) No
- Don’t know / no opinion / not applicable

Please explain what would be the benefits or risks linked to the implementation of such an approach in the EU?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AFME members support retaining the current position limits regime with regards to physical and cash settled contracts.

Question 46. Do you perceive an advantage or disadvantage of having separate position limits for physically and cash settled futures contracts for natural gas contracts, as is the case for Henry Hub futures in the US?

- ○ Yes
- ○ No
- ● Don’t know / no opinion / not applicable

Do you perceive an advantage or disadvantage of having separate position limits for physically and cash settled futures contracts for other contracts?

- ○ Yes
- ○ No
- ● Don’t know / no opinion / not applicable

Please explain your answer to question 46:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The above are not yes/no questions.
We support retaining the current position limits regime with regards to physical and cash settled contracts.
We believe there is no need to split the limits, provided the rules on how to aggregate cash and physically settled contracts falling under a limit is clear.

Question 47. Do you believe that the methodology and the level of the limits set by NCAs, for contracts subject to position limits, is adequate?

- ● Yes
- ○ No
- ○ Don’t know / no opinion / not applicable

Please explain your answer to question 47:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AFME members believe the current methodology is adequate and would caution against changes. In 2020 /2021, ESMA and the European Commission extensively reviewed the position limits regime in the context of the MiFID Quick-fix amendments. Prior to the final Level 1 amendments, ESMA issued a call for evidence, publicly consulted stakeholders, and issued a final report on position limits and position management of April 2020. The report explains the need for a nuanced application of the position limit regime, i.e. by applying limits to well-developed ‘critical and significant’ contracts but not to nascent or illiquid contracts. In its final report of 19 November 2021 (https://www.esma.europa.eu/sites/default/files/library/esma70-156-2311_mifid_ii_review_report_position_limits.pdf), ESMA proposed such changes to the RTS 21 on position limits and the co-legislators adopted the according CDR (EU) 2022/1302, which entered into force in August

2022. Hence, stakeholders and ESMA only recently and consistently argued that the application of position limits to all commodity derivatives would have adverse impacts on the functioning and development of niche markets and act as a barrier for new contracts. In this context, it should be noted that attractive commodity markets would also bolster the EU's strategic autonomy objectives.

Question 48. The Draghi report refers to the possibility to set stricter position limits, including by differentiating them by types of traders.

Do you believe that position limits should be differentiated, depending on the type of traders/trading activity involved?

- ○ Yes
- ● No
- ○ Don't know / no opinion / not applicable

Please explain your answer to question 48:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AFME members would prefer consistency across position limits applying to a clear set of contracts introducing different levels of limits depending on the types of traders would introduce additional layers of complexity that would in turn not provide additional benefits.
We further question which specific risk the Draghi report would seek to eliminate by introducing stricter limits given that the current regime, recently reformed under CMRP in 2021, is working effectively in combination with trading venue rules, as pointed out elsewhere in our response. Moreover, no evidence of market abuse was provided in the Draghi report. For specific examples, how stricter exemptions or a wider scope would negatively impact contract growth and liquidity in the EU, please also see the joint AFME/FIA/ISDA response to ESMA's 2019 call for evidence on position limits: https://www.afme.eu/Portals/0/globalassets/GFMA%20publications/2019/20190705_isda_fia_gfma-final-response_esma_call_for_evidence_position-limits.pdf?ver=2022-07-29-123122-063
There is a risk is losing visibility on the market as trades could move to less transparent OTC markets or to non-EU venues.

Question 49. Do you believe that the current exemptions from position limits as set out in MiFID, notably the hedging exemption, are fit-for-purpose?

- ● Yes
- ○ No
- ○ Don't know / no opinion / not applicable

Please explain why you believe the current exemptions from position limits are fit-for-purpose:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Yes, the current exemptions are fit-for-purpose.
However, AFME members note that current exemptions are only available to non-financial firms. We therefore propose that two additional exemptions be made available to financial firms, where these support client activity and enhance overall market functioning.
Pass-through Hedging Exemption:
We would support the introduction of a pass-through hedging exemption for financial firms dealing with non-financial firms that are hedging risks arising from their commercial activities. The exemption should be available where:
1. The financial firm enters into an OTC position with a non-financial firm which is conducting hedging activity, and the financial firm offsets the OTC position by entering into an in-scope commodity derivative contract; or
2. The financial firm enters into an in-scope derivative contract with a non-financial firm where the non-financial firm is using the hedging exemption.
We note this exemption is available under both US and UK regimes.
Bona Fide Hedging Exemption:
The current regulatory framework provides a hedging exemption exclusively for non-financial firms. We propose extending this exemption to financial firms engaged in bona fide hedging. This would allow financial firms to hold futures positions that offset their purchases of physical inventory—a practice already recognised under the U.S. regulatory regime.
This is particularly crucial for specialised markets such as EU carbon (see ESMA’s Final Report on Emissions Allowances and Associated Derivatives for more information - esma70-445-38_final_report_on_emission_allowances_and_associated_derivatives.pdf). In this market, financial firms often purchase inventory during periodic primary auctions to facilitate clients’ ability to comply with their compliance obligations by making these allowances available to compliance entities via secondary markets. This ability to source inventory during the entire action cycle enables financial participants to support their clients’ activity, given that the market structure the EU Emissions Trading Scheme cycle, encourages compliance entities to opt for long futures positions to meet their surrender requirements rather than utilise capital to purchase in the spot market.
It is therefore in the interests of market stability and efficiency to ensure financial firms are able to apply an exemption without which liquidity in the primary auctions could be adversely impacted.

What changes to such exemptions would you propose?

Are there certain markets where such exemption from position limits are more /less justified and is there merit to differentiate between types of commodity markets?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 50. Do you believe that the hedging exemption is sufficiently monitored by the competent supervisors?

- ○ Yes
- ○ No
- ● Don't know / no opinion / not applicable

Question 51. Do you believe that trading venues should play a greater role in granting hedging or liquidity provision exemptions from position limits to market participants?

- ○ Yes
- ● No
- ○ Don't know / no opinion / not applicable

Please explain your answer to question 51:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AFME members believe that the current regime works well. As the NCAs set limits, they should also be responsible for granting exemptions.

Question 52. Some jurisdictions allow supervisors and/or trading venues to grant ad hoc exemptions outside of the legally enumerated cases for exemptions for some contracts, if they perceive that the request is legitimate.

Do you believe the EU should also introduce such a flexibility for supervisors and/or trading venues?

- ○ Yes
- ● No
- ○ Don't know / no opinion / not applicable

Please explain why you think the EU should not introduce such a flexibility?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

See our response to question 49.

Question 53. Do you believe that trading venues:

	Yes	No	Don't know - No opinion - Not applicable
a) should be given more responsibility in setting position limits in general, for those contracts that are by law subject to position limits (i.e., commodity derivative contracts that qualify as significant and critical or are not agricultural derivative contacts), instead of competent authorities?	○	●	○
b) should be in charge of setting position limits for non-spot month versions of contracts subject to position limits, thereby applying regulator-set position limits only to spot month contracts, as seen in other jurisdictions?	○	●	○
c) should be required or rather given a possibility to set their own position limits for contracts that are not subject to position limits by law?	○	○	●

Please explain the potential advantages or disadvantages of option a):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AFME members believe that the position limits regime works well and does not require any amendments.

Please explain the potential advantages or disadvantages of option b):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The power to set position limits should rest with the same entity/authority to ensure a consistent methodology and certainty for market participants.

Please explain the potential advantages or disadvantages of option c):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 54. Do you believe that the current regulatory set-up sufficiently allows to enforce position limits on non EU-country market participants?

- (selected) Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 54:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AFME members believe that the tools currently available to regulators allow them to effectively enforce position limits (e.g. MoU between foreign jurisdictions).

Question 55. Do you believe that the position limits regime should also apply to 'C6 carve-out' products?

- Yes
- (selected) No
- Don't know / no opinion / not applicable

Please explain your answer to question 1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AFME members believe that significant challenges exist in applying a position limits regime to C6-carve-out products.
We note that these products are already covered by market abuse rules and transaction reporting obligations under the revised REMIT framework (REMIT II), along with transparency requirements stemming from the Transparency Regulation (Regulation 543/2013). As a result, firms and trading venues have had to put in place both preventive and detective measures – such as monitoring systems and suspicious transaction reporting. Given the enhancements introduced by REMIT II and the expanded powers granted to

ACER, we believe the current regime is adequate to manage market abuse risks.
We also question what additional risks would be addressed by introducing position limits and highlight the significant implementation challenges such limits would pose for C6-carve-out instruments.
Introducing a separate position limit framework under REMIT would not only be inefficient but would likely lead to overlapping or inconsistent methodologies. We fail to see how this would support supervisory objectives and are concerned it would further increase divergence between EU and UK approaches, thereby undermining the competitiveness of the EU energy markets.
Furthermore, we maintain that the distinct features of wholesale energy products – already recognised in ESMA's 2020 review of position limits – continue to justify their exclusion from the MiFID II position limits regime. ESMA noted that these products are primarily used by energy companies and industrial players to hedge physical production and supply risks, are generally not speculative in nature, are tied to public utilities with storage limitations, are traded between professionals, and typically require physical delivery through scheduling or nomination to a specific delivery point. https://www.esma.europa.eu/sites/default/files/library/esma70-156-2311_mifid_ii_review_report_position_limits.pdf
As mentioned in our response to Q32, we have serious concerns about classifying these products as financial instruments under MiFID Annex I Section C, thereby bringing them under the broader scope of MiFID and MiFIR. Before making such a change, a comprehensive assessment of its potential effects should be conducted to prevent unintended consequences.
Secondly, if a position limits regime were introduced under REMIT alongside MiFID, careful consideration would be needed to avoid duplication or conflicting limits for contracts based on the same underlying asset.
Lastly, due to the diverse nature of contracts traded on OTFs, implementing a consistent and effective position limits framework would be highly complex.

Question 56. Do you believe that energy and financial regulators should cooperate in the process of setting position limits for wholesale energy products?

- ( ) Yes
- (x) No
- ( ) Don't know / no opinion / not applicable

Please explain your answer to question 56:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

See our response to question 55.

5. Circuit breakers

Circuit breakers aim to avoid excessive volatility, maintain orderly trading and ensure a sound price discovery mechanism. The Union's regulatory framework (Article 48 of MiFID) requires that trading venues have arrangements in place that allow them to temporarily halt or constrain derivatives trading. Those "circuit breakers" can take the form of either price collars, which are a mechanism to reject orders outside certain price bands, or temporary trading halts. The MiFID circuit breakers apply to the trading of any financial instrument, including energy derivatives.

Circuit breakers can be defined as specific instruments on futures markets which restrict the maximum price fluctuation of a commodity in a given amount of time. A price limit is enacted when the price of a futures contract moves a certain predefined amount (expressed in absolute or relative terms) above or below the reference price. Dynamic circuit breakers are based on a dynamic reference price which evolves very frequently (e.g., less than a second) during the trading day, and are especially useful in avoiding erroneous orders from affecting price formation. Static circuit breakers are circuit breakers using a static reference price, intended as a price that is updated less often compared to the dynamic one but at least on a daily basis. When the futures price moves beyond the upper price limit, the market is "limit up" and market participants can only trade at the limit price or below. When the price moves below the lower price limit, the market is "limit down" and market participants can only trade at the limit price or above.

In December 2022, as part of the emergency measures taken to address the energy crisis, an intra-day volatility management mechanism (IVM) was introduced in the Union framework. Council Regulation (EU) 2022/2576, which applied until 31 December 2024, required that trading venues ensure that the intra-day price volatility management mechanism prevents excessive movements of prices within a trading day for energy-related commodity derivatives, without preventing the formation of reliable end-of-day closing prices. The setting of the exact parameters (breadth of the price bands, frequency at which price boundaries are renewed, etc.) of the IVMs are left to trading venues, taking due account of the liquidity and volatility profiles and other specificities of the considered energy-related commodity derivatives. Trading venues have been given the option to either implement new circuit breakers, or integrate IVMs in existing circuit breakers.

The MiFID/MiFIR review concluded in 2023 further strengthened the EU framework applicable to circuit breakers, notably by requiring that ESMA further details the principles underpinning the setting up of those circuit breakers, and by specifying that those circuit breakers should also apply in emergency situations – as opposed to only in cases of significant price movements. New transparency requirements have also been inserted. Those rules ensure that trading venues maintain discretion on the design of the circuit breakers, which are expected to be tailored to the specificities of the instruments considered and their liquidity profile. Those provisions apply across asset classes, and do not concern commodity derivatives markets only. ESMA is expected to submit regulatory technical standards (RTSs) to the Commission on this matter by 29 March 2025, further specifying the technical requirements for those circuit breakers (e.g., use of static and/or dynamic circuit breakers, transparency requirements, etc.).

Trading venues in other jurisdictions have introduced circuit breakers on energy markets that are akin to more static circuit breakers (rolling 60-minute lookback window), while circuit breakers for certain agricultural commodities take the shape of price limits set for the entire trading day. Those circuit breakers in those same jurisdictions, however, generally do not seem to apply to spot month contracts, in order not to affect orderly price discovery.

Questions related to section 5

In providing your answers under this section, please specify, to the extent relevant, **whether your assessment would differ depending on the type of commodity concerned** (agricultural, gas, electricity) or when considering EUA markets specifically.

Question 57. What is your assessment of the effectiveness of IVMs and of their enforcement by NCAs (or the adaptation of existing circuit breakers following the adoption of Council Regulation (EU) 2022/2576) in avoiding excessive price volatility of energy-related derivatives during a trading day?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The intra-day volatility management controls put in place by trading venues are effectively mitigating excessive volatility, with enhancements made to their calibration based on market consultation and the implementation of Council Regulation (EU) 2022/2576.

Question 58. Do you believe trading venues should be permanently required to implement static circuit breakers to further restrain excessive daily volatility for commodity derivatives specifically, as a complement to circuit breakers already implemented?

- ○ Yes
- ◉ No
- ○ Don’t know / no opinion / not applicable

What would be the associated advantages and disadvantages?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In general, energy derivatives tend to experience price volatility due to the inelasticity of supply and demand, particularly in the short term. As a result, unexpected shifts in demand or supply, as well as news affecting market fundamentals, can lead to significant price fluctuations. While static circuit breakers can help manage large price swings by referencing a fixed point in time (typically the previous settlement price), energy derivatives are uniquely influenced by supply-demand dynamics, geopolitical events, and global economic conditions. Given these specific characteristics, circuit breakers that adjust dynamically to global market events are necessary. Properly calibrated dynamic circuit breakers, aligned with prevailing market conditions, would be more effective in managing intraday price volatility than a combination of static and dynamic mechanisms.
AFME believes that dynamic circuit breakers are better suited to preventing unnecessary market disruptions. It is important to recognize that liquidity naturally gravitates toward the most efficient venues for price discovery. Even when a circuit breaker halts trading on a regulated market, the underlying asset’s value can continue to fluctuate. Market participants may shift their trading activity to alternative venues, such as OTC markets or dark pools, meaning that a trading halt does not necessarily prevent price movements. OTC transactions, in particular, can influence the perceived value of an asset even when regulated market trading is temporarily suspended. By swiftly adapting to evolving market conditions, dynamic circuit breakers help reduce uncertainty and enhance access to real-time pricing information, ultimately supporting lower volatility by enabling market participants to make well-informed trading decisions.

Please explain your answer to question 58:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In its report on the implementation and functioning of the Intra-day Volatility Management Mechanism, ESMA considers that the already existing circuit breakers under MiFID II are sufficient to deliver on the objective to limit excessive intra-day price volatility without introducing a second layer of circuit breakers via IVMs.

Moreover, the implementation of Council Regulation (EU) 2022/2576 has been superseded by the MiFIR review that includes adjustments to circuit breaker arrangements. In this context, ESMA has been tasked to developed principles trading venues should meet when designing and operating circuit breakers.

Question 59. What should be the effect of hitting those static price bands (should this trigger for instance trading halts or order rejection mechanisms)?

In your view, what are the pros and cons of each mechanism?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Energy derivatives markets differ from equity markets in that when trading is halted on energy derivatives, the underlying physical market continues to experience price movements. Additionally, physical energy markets are inherently volatile due to their short-term nature, requiring rapid price adjustments to address supply and demand imbalances in near real-time. Energy is generally challenging to transport and store, and fluctuations in supply and demand arise from factors such as infrastructure constraints, unplanned outages, and unexpected weather conditions.

The forward (futures) market, on the other hand, reflects a longer-term perspective on market fundamentals, typically covering monthly flows, as well as quarterly, seasonal, and calendar-based periods. As a result, it is less sensitive to real-time supply and demand fluctuations. Volatility in energy derivatives markets is largely determined by the tightness of supply and demand. Moreover, price fluctuations in energy markets near delivery tend to balance out over time, and monthly derivatives contracts – the primary instruments in energy derivatives markets – naturally exhibit lower price volatility.

For commodity derivatives to serve as an effective risk management tool, they must accurately reflect the dynamics of the underlying physical market. Consistent with Principle 4 of the IOSCO standards for the Regulation and Supervision of Commodity Derivatives Markets, the price of a derivative will naturally converge with the price of its underlying asset as the contract approaches settlement.

Restricting access to derivatives markets through frequent or prolonged trading halts or order rejection mechanisms may impair their risk management function. When price formation in these markets is constrained, the prices of exchange-traded derivatives may no longer be adequately tested, increasing the risk of misalignment with the underlying physical market.

Question 59.1 If you favour trading halts, what duration do you recommend for an appropriate trading halt that is long enough for market participants to assess the situation and their position in the derivatives market and for the market to 'cool off'?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

While short trading halts may help markets absorb extreme volatility, regulatory assessments , including those from the FCA in relation to the 2022 LME nickel suspension underscore the risks of prolonged interventions. The FCA concluded that the extended suspension of trading at the LME hindered participants' ability to manage their positions, exacerbated disorderly market conditions, and increased the likelihood of systemic risk. Crucially, the halt deprived participants of access to vital risk management tools at a time of extreme price movements – disrupting price discovery and market confidence. These disruptions can amplify uncertainty and ultimately raise hedging and financing costs across the commodity value chain. Therefore, if trading halts are to be used, they must be applied judiciously, with clear parameters and kept to a minimum in both number and duration. Any halt should last only as long as necessary to restore orderly trading and allow participants to reassess their positions – measured in minutes, not hours or days.

Question 59.2 Would your assessment differ according to the type of underlying commodity considered?

- ○ Yes
- ◉ No
- ○ Don't know / no opinion / not applicable

Please explain your answer to question 59.2:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

See our response to question 59.

Question 60. Do you see any risk in static circuit breakers applying to spot month contracts, considering possible implications on physical delivery, as well as possible valuation challenges and divergences between spot and futures prices?

- ◉ Yes
- ○ No
- ○ Don't know / no opinion / not applicable

Please explain your answer to question 60:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

See our previous responses to questions in this section.

Question 61. Do you perceive that implementing static price bands would risk moving trading to OTC markets?

- ◉ Yes
- ○ No

- Don’t know / no opinion / not applicable

What would be possible mitigants to prevent such migration?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As outlined in our previous response, the imposition of static circuit breakers on energy derivatives markets would disrupt their proper functioning. In response, market participants may shift to OTC markets as an alternative risk management tool—though these markets offer lower transparency and quality compared to regulated on-screen trading. Restricting access to OTC markets would be even more problematic, as it would further limit the risk management options available to market participants. This, in turn, could introduce greater systemic risk and drive up costs for the underlying commodities.

Question 62. Do you believe the dynamic static breakers implemented by trading venues in general function adequately?

- (x) Yes
- No
- Don’t know / no opinion / not applicable

Please explain the challenges and please indicate any potential improvements to their functioning:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Regulated markets require sufficient flexibility to establish trading halt parameters that are appropriately calibrated. These parameters should account for the liquidity of different asset classes and sub-classes, the structure of the market model, and the types of market participants, ensuring they effectively prevent significant disruptions to orderly trading. If not properly designed or calibrated, circuit breakers may not mitigate excessive volatility as intended and could instead unintentionally exacerbate market movements.

Question 63. Do you believe energy exchanges trading in spot energy products or C6 carve-out products should also implement mechanisms similar to circuit breakers?

- Yes
- (x) No
- Don’t know / no opinion / not applicable

Please explain your answer to question 63:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Energy exchanges offering such products need sufficient flexibility to apply circuit breakers to appropriate contracts and develop the parameters for halting trading are appropriately calibrated in a way which takes into account the liquidity of different asset classes and sub-classes, the nature of the market model and types of users and is sufficient to avoid significant disruptions to the orderliness of trading.

6. Elements covered by the Draghi report

This section proposes to explore the measures set out in the Draghi report which are not otherwise covered by the review items in the review clause under Article 90(5) of MiFID. This section focuses on energy commodities (thereby not concerning derivatives on other commodities, EUAs and derivatives on EUAs), so as to reflect the specific focus of the Draghi report.

6.1. Obligation to trade in the EU

The Draghi report calls for trading activities in energy derivatives to 'be undertaken by companies trading in the EU'. This recommendation can be understood as requiring that energy derivatives trading relevant to the EU/for EU delivery should occur in the EU only.

The report however also widens its recommendation to a fall-back scenario whereby "as a minimum, all market participants (irrespective of domicile) need to report their trades (and positions) to the regulators in the EU" (see page 30 of the report). The report does not clarify what instruments should be subject to such reporting. Questions relating to potential data gaps are addressed under section 1.

Questions related to section 6.1

In providing your answers under this section, please specify, to the extent relevant, **whether your assessment would differ depending on whether natural gas or electricity is concerned**.

Question 64. Do you believe a general obligation to trade in the EU should be introduced?

- ( ) Yes
- (x) No
- ( ) Don't know / no opinion / not applicable

Please explain your answer to question 64:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AFME members strongly oppose an obligation to trade commodity derivatives on EU trading venues and are of the view that the proposed obligation represents a significant market access barrier. A similar attempt to introduce strict location requirements under REMIT was already rejected in 2024 by the Parliament and the Council, with policymakers recognising the risks of such an approach. As highlighted by European industry associations and also by U.S. lawmakers in their letter of 24 October to the EU Energy Commissioner Kadri Simson, a strict location requirement would reduce market liquidity, increase hedging costs, and harm the competitiveness of European energy and commodity markets. Overall, these restrictions could weaken crossborder risk management and disincentivise firms from participating in EU markets, ultimately harming European end-users by increasing costs and reducing market resilience. Given the global nature of energy markets, where commodities are traded and transported across borders between producers and consumers worldwide, rigid trading obligations risk fragmenting liquidity and undermining the EU's security of supply. The gas market, in particular, relies on the ability of European firms to trade freely with a wide range of international physical players. Constraining this access could limit trading opportunities, disrupt supply chains, and ultimately restrict the flow of gas into Europe.

In addition to the above, it is a fundamental criterion of the derivatives trading obligation that instruments in scope for that obligation should also be subject to the clearing obligation under EMIR, as specified in MiFIR Art. 28(2a).

Clear criteria are set out in EMIR to determine which derivatives contracts should fall in scope of the clearing obligation, which are their level of standardisation, their volume and liquidity, and the availability of fair, reliable and generally accepted pricing information for that contract. For a new contract to be added to the clearing obligation, ESMA must consult and submit a draft RTS to the Commission. This ensures that only those OTC derivatives contracts that are suitable for mandatory clearing are included in the scope of the clearing obligation.

Equally, clear criteria are set out in MiFIR to determine which of those OTC derivatives contracts that are subject to the clearing obligation should also be subject to the trading obligation, including the liquidity of the contract. Again, ESMA must consult and submit a draft RTS for a new contract to be brought into the scope of the derivatives trading obligation; and again, this ensures that only sufficiently liquid OTC derivatives contracts are included.

We are of the firm view that currently, no OTC commodity derivatives contracts meet the criteria for inclusion in the scope of the clearing obligation, much less the scope of the derivatives trading obligation.

Circumventing the guardrails specified in EMIR and MiFIR to add OTC commodity derivatives contracts into the scope of the derivatives trading obligation would carry a high level of risk of adverse impact to this market.

OTC commodity derivatives contracts should only be considered for inclusion in the derivatives trading obligation once they have been included in the scope of the clearing obligation in accordance with Article 5 of EMIR. They should then only be included in the scope of the derivatives trading obligation in accordance with Article 32 of MiFIR.

It should also be noted that there is a reporting fall-back option mentioned in the consultation; assuming this applies to products with physical delivery in the EU then this is already covered under REMIT. Further, the recent revisions to REMIT strengthened the ability of ACER to request information from market participants, for the purpose of fulfilling its obligations (Art 13b - Request for information). There is also a registration requirement on non-EU firms and a requirement on them to report all trades and positions in wholesale energy products (and derivatives on them, where not already reported under EMIR/ MiFIR).

Question 65. If such a general obligation were to be introduced, please set out any possible impact on EU market participants' ability to hedge, notably with non-EU counterparties:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Bringing OTC commodity derivatives contracts under the derivatives trading obligation would likely have a negative effect on EU market participants' ability to hedge with both EU and non-EU counterparties. This could lead to higher costs and reduced liquidity, particularly if trading on non-EU venues remains more efficient for those not subject to the obligation or for products outside its scope, potentially harming competitiveness. Additionally, liquidity could shift to nearby trading venues, such as those in the UK, which may encourage some firms to move away from EU trading venues for specific products.

Non-EU firms, including participants in the Nordic power market, play a key role in supplying physical energy and ensuring liquidity in the EU's main energy markets. Restricting their ability to trade with EU market participants outside of an EU trading venue could weaken market liquidity and threaten the EU's energy security, particularly in gas and LNG markets. Such market access restrictions would ultimately limit the ability of EU-based firms to effectively hedge their energy price risks.

Question 66. If such an obligation were to be introduced, please set out any possible impact on market participants and the functioning, depth and liquidity of the markets concerned:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As stated in our response to Question 65, including OTC commodity derivatives in the derivatives trading obligation would likely hinder the ability of EU market participants. This, in turn, would affect their capacity to provide liquidity and facilitate market-making, leading directly to wider bid/offer spreads.

6.2. The Market Correction Mechanism and other dynamic caps

The Market Correction Mechanism (MCM) was introduced by Council Regulation (EU) 2022/2578 in the context of the 2022 energy crisis. It aimed at limiting excessive energy prices in contexts where TTF natural gas derivative prices (i) exceed EUR 180 per MWh, and (ii) exceed by more than EUR 35 a representative price for global LNG. Under those circumstances, the MCM required that regulated markets on which TTF futures are traded to reject orders that are above the specified limits. The MCM differs from traditional circuit breakers to the extent that the bidding limits are not set by reference to prices/bids observed on venue, but by reference to external prices (in the case of the MCM, by reference to a basket of prices reflecting global natural gas prices).

Following the adoption of the MCM, both ACER and ESMA have issued reports setting out the effects of the MCM:

- ESMA's preliminary data report on the introduction of the market correction mechanism - 23 January 2023
- ESMA's effects assessment of the impact of the market correction mechanism on financial markets - 1 March 2023
- ACER's preliminary data report on market correction mechanism - 23 January 2023
- ACER's effects assessment report on market correction mechanism - 1 March 2023

Those reports indicated that the MCM did not to have a discernible gas market impact, owing to gas prices being significantly below MCM trigger levels. Both agencies' reports however point to a number of risks, for instance in terms of a shift to less transparent and uncleared OTC trading, in terms of challenges linked to the adaptation of risk models and margin calls by Central Counterparties (CCPs), and in terms of potential hikes in margin calls, in terms of physical flow developments. Some stakeholders however claim that the MCM provided a helpful shield against extremely high prices.
As of 1 May 2023, the MCM applied to all gas virtual trading points. The MCM then expired on 31 January 2025.

The Draghi report suggests that dynamic caps, building on the experience of the MCM, are made a permanent feature of the EU rulebook on energy spot and derivatives trading (spot and derivatives), to ensure that derivatives prices do not significantly diverge from global energy prices, as has been seen during the 2022 energy crisis.

Questions related to section 6.2

In providing your answers under this section, please specify, to the extent relevant, **whether your assessment would differ depending on whether natural gas or electricity is concerned**.

Question 67. Do you believe that MCM is a useful tool to limit the episodes of excessive – and significantly diverging from global markets – prices in the EU?

- ◯ Yes
- ◉ No
- ◯ Don’t know / no opinion / not applicable

Please explain your answer to question 67:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The Market Correction Mechanism (MCM) has not demonstrated significant benefits in stabilising EU energy prices. It has been scrutinised by market regulators, including ACER, ESMA, and the ECB, who report no observable improvement in price stability or security of supply. Instead, price caps interfere with market dynamics, limiting the ability of participants to hedge risks effectively. By discouraging participation and reducing liquidity, price caps may unintentionally increase volatility rather than contain excessive price movements.

Question 68. Building on the experience of the MCM, do you think dynamic caps based on external prices (whether in the shape of the MCM or in another shape) would help avoid situations where EU energy spot or derivatives prices significantly diverge from global energy prices, and should therefore be codified in legislation?

- ◯ Yes
- ◉ No
- ◯ Don’t know / no opinion / not applicable

If you think it is not a useful tool, please explain why, and specify, if relevant, to what extent you believe price divergences between EU prices and international prices can be warranted:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

A price cap undermines the risk management function of European energy markets. If triggered, the cap would artificially constrain the value of energy derivatives, decoupling them from the price of the underlying physical market, where supply and demand dynamics may have shifted. This disconnection impairs market participants' ability to manage price risks effectively, increasing volatility and making European energy

markets less attractive.
Market participants require regulatory stability and predictability. If uncertainty over a price cap causes participants to exit or reduces overall market activity, liquidity will decline, resulting in wider bid-ask spreads. To compensate for the increased risk, margin requirements will rise, imposing additional costs on all market users, including consumers. Ultimately, a price cap does not lower the global market price of energy; instead, it introduces upward price pressure and increased volatility in Europe.

Question 69. Do you believe that the MCM or other dynamic caps could have an impact on the attractiveness and/or stability of EU commodity derivatives markets?

- (x) Yes
- ( ) No
- ( ) Don’t know / no opinion / not applicable

Please explain how the MCM or other dynamic caps could have an impact:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Natural gas markets are global, with gas moving across borders between producers and consumers worldwide. The rise of the TTF gas market has allowed global producers to accept the European onshore price in euros as a credible reference. This strategic marketplace is critical for sourcing gas to Europe, managing portfolios, and ensuring efficient allocation of supply.
However, the introduction of artificial price caps would not address the fundamental supply and demand dynamics shaping gas prices. Instead, it would damage trust in the TTF and drive market participants to alternative pricing references outside the EU. This would weaken the EU’s ability to influence global energy prices and could lead to the migration of trading activity to jurisdictions without such restrictions.
A price cap that artificially suppresses gas prices below market levels would also diminish Europe’s competitiveness in attracting LNG shipments, jeopardising short-term supply. Historical data shows that LNG cargoes have been redirected to Europe when needed, but this responsiveness could be lost under a capped price system. Furthermore, artificial pricing mechanisms undermine Europe’s credibility as a reliable buyer, potentially discouraging long-term supply agreements and reducing investment in critical infrastructure.
Europe has already secured only 26% of the necessary LNG supplies through 2040, significantly lagging behind Asia’s contracted volumes. Implementing a price cap could further discourage global suppliers from prioritising Europe, ultimately increasing supply risks in the long run.

Question 70. What is your assessment of the impact of a triggering of the MCM on trading conditions and financial stability?

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The MCM poses serious risks to financial stability and security of supply and does not align with the EU’s ambitions to foster the Capital Markets Union, improve competitiveness, and strengthen strategic autonomy. If market participants become concerned about the possibility of the MCM being triggered, the EU’s most successful globally traded energy commodity derivatives market may relocate outside the EU. This euro-

denominated market would then no longer be subject to EU regulatory oversight, weakening the EU's financial system.
Moreover, liquidity in the primary hedging tool used in Europe to mitigate consumer exposure to spot gas price fluctuations would be reduced. This would increase consumer exposure to volatility, raise the cost of capital for the European energy sector, and diminish competitiveness.

Question 71. Are you aware of any impact on margins (or other trading costs) of the mere existence of the MCM, notwithstanding the fact that the mechanism has never been triggered?

- ◯ Yes
- ◉ No
- ◯ Don't know / no opinion / not applicable

Please explain your answer to question 71:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

While the mechanism has never been triggered, a price cap presents significant threats to Europe's financial stability, as outlined in our previous responses. The European Central Bank (ECB) has warned that the design of the MCM could jeopardise financial stability in the euro area. It could increase volatility and lead to higher margin calls, straining central counterparties' (CCPs) ability to manage financial risks. Additionally, the uncertainty around price caps may incentivise market participants to shift from regulated trading venues to non-centrally cleared over-the-counter (OTC) markets, where risks are harder to monitor.
ESMA has also noted that, if prices approached the artificial limit, trading would likely shift outside the EU. While these risks did not materialise during the energy crisis – due to gas prices falling below the activation threshold before the MCM came into effect – there is no guarantee that similar conditions will prevail in future crises. The mere existence of the MCM introduces uncertainty into the market, affecting liquidity and trading behaviour.
Further, research by European regulators and academics has shown that the MCM failed to reduce volatility or lower gas prices during the energy crisis. However, the financial stability risks it posed remained significant throughout its existence until its discontinuation. Any future implementation of similar mechanisms would likely bring similar risks, discouraging investment in energy infrastructure and further destabilising European energy markets.

6.3. Application of organisational and operational requirements to the spot market

The 2022 gas market events showed the strong interconnectedness of spot/physical and futures markets in the energy realm – as is the case for other markets. The market for energy derivative contracts is subject to stringent MiFID rules. However, unlike other derivatives markets, the market for underlying spot energy products is subject to a less expansive rulebook, despite many similarities between markets for spot and future contracts. The Draghi report suggests that the alignment between the two sets of rulebooks governing the spot and derivatives markets would help prevent the contagion of systemic risks from spot to financial markets.

More concretely, the Draghi report mentions that some basic requirements of the MiFID 'trading rule book' could be extended to spot markets. This could in particular entail two types of measures:

a. rules imposed on trading venues

b. and rules imposed on market participants themselves

Spot energy exchanges and actors active on those exchanges are mainly governed by REMIT. Currently, REMIT does not provide for organisational and operational requirements on OMPs (akin to MiFID trading venues) and market participants similar to those included in MiFID. This consultation seeks to obtain information on whether the introduction of such requirements in the REMIT framework would be useful.

6.3.1. Organisational requirements at trading venue level

Article 53 of MiFID on access to regulated markets requires exchanges to establish, implement and maintain transparent and non-discriminatory rules, based on objective criteria, governing access to or membership of the regulated market. In particular, such exchange rules should ensure that market participants trading on the venue satisfy certain organisational requirements and are competent traders. Those provisions are currently not part of the rulebook governing the functioning of spot energy trading venues.

Furthermore, regulated markets under MiFID are required to set up and implement rules on professional standards on the staff of the investment firms or credit institutions that are operating on the market, which includes checking that market participants, inter alia (Article 53(3)):

- are of sufficient good repute
- have a sufficient level of trading ability, competence and experience
- have, where applicable, adequate organisational arrangements
- have sufficient resources for the role they are to perform, taking into account the different financial arrangements that the regulated market may have established in order to guarantee the adequate settlement of transactions

6.3.2. Organisational requirements at market participant level

MiFID contains a number of safeguards, in the shape of organisational requirements, ensuring that investment firms actually manage their operations in a professional manner (namely, so-called ‘fit-and-proper’ requirement). They ensure that the firm has a proper understanding of the activities it engages in and the market it interacts with, and that this is reflected in the way the firm is managed. This includes, for instance:

- the obligation for investment firms to have a management body that oversees and is accountable for the implementation of the governance arrangements that ensure an effective and prudent management of the investment firm in a manner that promotes the integrity of the market and the interest of potential clients (Article 9 (3) of MiFID). This includes approving and overseeing the knowledge and expertise required by the personnel, and the procedures and arrangements for the provision of services and activities, taking due account of the nature of the firm’s activities (Article 9(3), point a). The management body is also in charge of carrying out appropriate stress testing, if appropriate (Article 9(3), point b)
- competent authorities are required to refuse or withdraw authorisation from an investment firm whose management body is not of sufficient good repute, or does not possess sufficient knowledge, skills and experience, or if there are objective and demonstrable grounds for believing that the management body of the firm may pose a threat to its effective, sound and prudent management and to the adequate consideration of the interest of its clients and the integrity of the market (Article 9(4))
- investment firms should have sound administrative and accounting procedures, internal control mechanisms, effective procedures for risk assessment (Article 16(5))

6.3.3. Other relevant rules governing market integrity and transparency

Beyond those organisational requirements, other aspects of the financial rulebook covering market transparency (e.g., pre- and post-trade transparency) and market integrity (circuit breakers, position management controls, emergency intervention powers by trading venues to ensure orderly trading) could potentially be of relevance to the operation of spot markets. Those items have been covered under the relevant sections above.

Questions related to section 6.3

In providing your answers under this section, please specify, to the extent relevant, **whether your assessment would differ depending on whether natural gas or electricity is concerned**.

Question 72. Do you believe that requirements similar to some/all organisational requirements imposed on MiFID firms as market participants should also be imposed on market participants in spot energy markets, without requalifying those entities as investment firms?

- Yes
- No
- Don’t know / no opinion / not applicable

Question 73. Do you believe that key rules similar to those applicable to MiFID trading venues should also apply to spot energy exchanges, and why?

- Yes
- No
- Don’t know / no opinion / not applicable

Question 74. Do you believe that the application of rules similar to the ones included in MiFID to spot energy market participants could have helped preventing at least some atypical trading behaviours (e.g., lack of forward hedging, trading on weekends) during the energy crisis, and limited repercussions on derivative markets?

- Yes
- No
- Don’t know / no opinion / not applicable

Please substantiate your answer to question 72:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 75. The revised REMIT clarified that benchmarks used in wholesale energy products are captured by the market abuse-related provisions in that Regulation.

Do you believe that this is sufficient to ensure the integrity of such benchmarks, and avoid risks of manipulation?

- Yes
- No
- Don’t know / no opinion / not applicable

If you think this is not sufficient, please explain whether you would see merit in establishing rules similar to those imposed on benchmarks used in financial instruments and financial products under Regulation (EU) 2016/1011, and why:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

6.4. Enhanced supervisory cooperation in the energy area

The events of summer 2022 on energy spot and derivatives markets have shown the close interconnectedness of the two markets. This interlinkage is however not reflected in the fragmented supervision of these markets. Instead, supervision is split at national level between NRAs and NCAs (if not, in certain cases, regional authorities), as well as between ACER and ESMA at European level. The interlinkages between spot and derivatives markets suggest that more enforcement cooperation could be warranted.

The Draghi Report recommends to further integrate regulatory and supervision frameworks, notably through a deepening of the cooperation between ACER and ESMA building on exchanges of information. To achieve this, the report suggests the creation of a coordination body comprised of energy and derivative markets regulators at the European level (ACER and ESMA), which should coordinate the supervision of spot and derivatives markets. The supervisory college would remove possible overlap, duplication or potential conflicts of supervision between energy and financial regulators. The report also suggests that this college could help remove layers of intermediate supervision at the national and sometimes regional levels. This supervisory college would have both the investigative and policy powers necessary to prevent, detect and prosecute anticompetitive conduct, market abuse and other practices which disrupt orderly trading in energy (see page 30 of the report).

One of the main objectives of the revised REMIT is to enhance cooperation in the energy area, as recommended by the Draghi Report. As mentioned above, the revised REMIT includes numerous provisions that not only enhance cooperation and information exchanges between EU bodies and national regulators in the field of energy, financial and competition in the context of potential REMIT breaches, but also provide for the possibility of general information exchanges among the aforementioned authorities (see Article 10, paragraphs (1) and (2) of revised REMIT).

Questions related to section 6.4

In providing your answers under this section, please specify, to the extent relevant, **whether your assessment would differ depending on whether natural gas or electricity is concerned**.

Question 76. Do you agree that the current situation leads to a complex supervisory scenario between various national and sometimes regional supervisors which may slow down reactions in times of crisis?

- Yes
- No
- Don’t know / no opinion / not applicable

Question 77. The Benchmark Regulation (Regulation (EU) 2016/1011) sets the regulatory and supervisory regime for commodity benchmarks used in financial instruments or financial products. Those benchmarks usually at least partially refer to market dynamics in the underlying physical commodity market.

Do you believe that, when it comes to energy benchmarks, there is adequate cooperation between energy markets supervisors and securities markets supervisors?

- Yes
- No
- Don’t know / no opinion / not applicable

Additional information

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) below. **Please make sure you do not include any personal data in the file you upload if you want to remain anonymous**.

The maximum file size is 1 MB.
You can upload several files.
Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Useful links

More on this consultation (https://finance.ec.europa.eu/regulation-and-supervision/consultations-0/targeted-consultation-review-functioning-commodity-derivatives-markets-and-certain-aspects-relating_en)

Consultation document (https://finance.ec.europa.eu/document/download/1f0a18f3-b3dd-4a0f-9ddd-4838645d3a86_en?filename=2025-commodity-derivatives-markets-consultation-document_en.pdf)

More on investment services and regulated markets (https://finance.ec.europa.eu/capital-markets-union-and-financial-markets/financial-markets/securities-markets/investment-services-and-regulated-markets_en)

Specific privacy statement (https://finance.ec.europa.eu/document/download/80808b0f-93bd-4a5a-bfb8-3fcf47226e15_en?filename=2025-commodity-derivatives-markets-specific-privacy-statement_en.pdf)

Contact

fisma-commodities@ec.europa.eu