OPINION on position limits on CORN contract

I. Introduction and legal basis

1. On 28 March 2023, the European Securities and Markets Authority ("ESMA") considered that sufficient information was received to assess a notification received from the Autorité des Marches Financiers (AMF) under Article 57(5) of Directive 2014/65/EU on markets in financial instruments[1] ("MiFID II").

2. The notification relates to the exact position limits the AMF intends to set for the corn commodity contracts in accordance with the methodology for calculation established in Commission Delegated Regulation (EU) 2022/1310[2] ("RTS 21a") and taking into account the factors referred to in Article 57(3) of MiFID II.

3. ESMA's competence to deliver an opinion on the position limits that competent authorities intend to set is based on Article 57(5) of MiFID II.

4. On 10 August 2017, ESMA already issued an Opinion regarding the exact position limits that the AMF intended to set for the CORN commodity contracts. For the spot month, the position limit considered by the AMF in June 2017 was 13,000 lots. For the other months', the position limits considered were 9,000 lots during the twenty-one days before the spot month expires and 6,500 lots during the rest of the other months' period. In the opinion, ESMA concluded that the position limits considered by the AMF complied with the methodology established in Commission Delegated Regulation (EU) No 2017/591[3] (RTS 21) and were consistent with the objectives of Article 57 of MiFID II.

5. The AMF reviewed these limits in light of the change in methodology for calculating position limits following the entry into force of RTS 21a. As a consequence, in this opinion, ESMA is assessing whether the new position limits the AMF intends to set for the CORN contracts comply with the methodology established in RTS 21a and are consistent with the objectives of Article 57 of MiFID II. ESMA understands that the new position limits will apply one month after the publication of this opinion and replace the previous position limits as determined by the AMF.

[1] Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).
[2] Commission Delegated Regulation (EU) 2022/1302 of 20 April 2022 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the application of position limits to commodity derivatives and procedures for applying for exemption from position limits (OJ L 197, 26.07.2022, p.52)
[3] Commission Delegated Regulation (EU) 2017/591 of 1.12.2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the application of position limits commodity derivatives (OJ L 87, 31.3.2017, p. 479).

6. In accordance with Article 44(1) of Regulation (EU) 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority) ("ESMA Regulation"), the Board of Supervisors has adopted this opinion.

II. Contract classification

Commodity base product: agricultural (AGRI)

Commodity sub product: grains and oil seeds (GROS)

Commodity further sub product: maize (CORN)

Name of trading venue: EURONEXT PARIS MATIF

MIC: XPAR

Venue product codes: EMA, OMA

III. Market description by the competent authority

7. The MATIF corn contract (also known as Euronext corn contract or European corn) refers to corn from any EU origin. The trading volume settles in lots, a lot is equivalent to 50 tons of underlying.

8. Over the last 5 years, corn production in the European Union has averaged 70 million metric tons per year, with France and Romania as the main producers (almost 40% of total EU production together), followed by Hungary, Italy, Germany and Spain. The Euronext corn contract is considered as the benchmark for the European underlying physical market in corn. Europe is a net importer and only exports corn for an amount equivalent to less than 5% of deliverable supply.

9. 100% of the European production is considered as respecting the minimum requirements of the Euronext corn contract which are moisture rate (15,5% maximum), broken kernels (10% maximum), sprouted seeds (6% maximum), other seeds (5% maximum) and impurities (3% maximum). The underlying can be delivered in 6 licensed ports in France (Bayonne, Blaye, Bordeaux, La Rochelle Pallice, Nantes and Dunkirk) and in one port in Belgium (Ghent).

10. In terms of market evolution, since 2020 the price of the Euronext corn contract has started to follow an upward trend. Before that, the price was evolving between €140/mt and €280/mt with an average price of €170/mt. Russia's invasion of Ukraine caused the price to sharply increase to a peak around €420/mt in March 2022 (+162% since mid-2020).

However, since mid-May 2022, the price of the Euronext corn contract has declined nearly 35% due to the Black Sea grain deal and good production in Europe. Today, the market is back to pre-war levels and daily volatility has returned to its usual level.

11. The price of the Euronext corn contract has been more stable than the price of the wheat contract. However, the corn market is highly correlated with the wheat market, as both products can be used for animal feed. When one is cheaper than the other, feed producers rearrange the formulation of their feeds (to some extent) in order to obtain cheaper suitable feeds, for example, by replacing a few percent of corn with wheat or the other way around.

12. The underlying is not qualified as food intended for human consumption as almost 70% of the corn supply is issued for animal feed.

13. The market participants in the derivative corn contract are mostly cattle feed industrials, European grain merchants and starch industrials.

14. Expiring months of futures are March, June, August and November (January 2022 was the last January maturity). Ten consecutive maturities are listed at any time. At expiry (the 5th of the month or the following business day), the future contract is physically delivered, with six silos located in Western France, the North of France and Belgium. Options expire on the 15th of the month preceding each maturity of the future (or the following business day). The delivery of options being physical, their exercise results in the assignment of underlying futures at the exercise price, i.e. the strike price.

15. Trading on the MATIF corn contract takes place in lots. One lot is equivalent to 50 tons.

IV. Proposed limit and rationale by the competent authority

Spot month position limit

16. Deliverable supply amounts to 437,329 lots.

17. The AMF has determined the deliverable supply following a 3-step process:

18. Firstly, the AMF estimated the yearly average of the total production of corn in Europe and the yearly average quantity of corn imported by Europe (based on statistics from the French Ministry of Agriculture over a five-year period based on the latest data available, i.e. 01/07/2017-31/06/2022) in accordance with Article 12(2)(b) of RTS 21a. This corresponds respectively to 69,049 Mt and 18,420 Mt for a total of 87,466 Mt.

19. The AMF considered that 100% of the supplied quantity met the Euronext contract specifications. Therefore, no quality adjustment on the production figures has been deemed necessary.

20. Thereafter, the figure has been time-prorated to take the duration of spot month contracts (3 months) into account, multiplied by the equivalent number of unit (50 mt/lot): 437,329 lots.

21. Deliverable supply should be based on production, imports and storage capacity. However, the AMF does not consider storage capacity as a deliverable quantity since, under market practice, the amount of corn in the storage at the end of the year should be equal to the initial quantity at the beginning of the same year, in order to compensate for a possible deterioration of production in the following season. The AMF therefore deems that the amount of corn held in storages should not be considered as a usable quantity and included in the calculation of deliverable supply.

Spot month position limit

22. The spot month definition includes 90 calendar days.

23. The spot month limit is split into two periods:

a. At start of the spot month, the position limit is set at 7,500 lots which constitutes 18% of the open interest; and

b. Over the last twelve trading sessions before expiry of the contract the position limit decreases to 2,500 lots, which constitutes 6% of the open interest.

Spot month position limit rationale

24. In accordance with Article 11(1) of RTS 21a, the AMF set the baseline at 25% of the open interest as the deliverable supply is substantially higher than the total open interest [4] and setting the spot month limit based on the deliverable supply would not allow setting a meaningful limit, even when using the lower possible percentage of the reference amount.

25. The AMF has considered the following factors relevant for adjusting the baseline downwards:

- Article 19(3) of RTS 21a as the open interest is significantly lower than the deliverable supply.

[4] Deliverable supply is more than 12 times the overall open interest in the case of the CORN contract.

- Article 21(1) and more specifically 21(2)(e) of RTS 21a, to reflect macroeconomic or other related factors that influence the operation of the underlying commodity market including the delivery, storage, and settlement of the commodity.

26. With respect to macroeconomic and other related factors, it should be noted that Europe imports nearly 25% of its production. To that end, the conflict in Ukraine and the closure of ports in the Black Sea (responsible for 55% of corn imports in Europe and less than 15% of world exports) led to a limitation of logistical capacities for nearly five months, putting the market under pressure. While the agreement on export corridors in the Black Sea has improved the situation, the scenario remains fragile.

27. Based on the above, the AMF has set the spot month limit at the start of the spot month at 7,500 lots, which corresponds to 18% of the total open interest.

28. On top of the general position limit for most of the spot month described in the previous paragraphs, the AMF has set a second lower position limit which applies only to the last twelve trading sessions before expiry to reduce delivery risk and ensure an orderly settlement of the contract. During this period, the limit is set at 2,500 lots, which constitutes 6% of open interest.

29. All the other potential adjustment factors set out in RTS 21a have been considered by the AMF and were not regarded as material or relevant to require additional adjustments from the baseline.

30. Based on the above, the AMF considered that it was appropriate to set the spot month' limit at the start of the spot month at 18% of the total open interest representing 7,500 lots, and to set the limit at 6% of the total open interest representing 2,500 lots for the last twelve trading sessions before the expiry of the spot month.

<u>Open interest</u>

31. The open interest amounts to 41,647 lots.

32. The AMF has calculated the open interest based on the daily position reports received from Euronext in accordance with Article 58 of MiFID II from January 2022 to December 2022. The AMF first aggregates positions by day, ISIN and position holder in order to have net (either long or short) positions per ISIN, day and position holder. Then, the AMF computes (1) the total long positions (per day and underlying contract) by adding up all the long positions calculated at the previous step; and (2) the total short positions (per day and underlying contract) by adding up all the short positions calculated at the previous step.

33. The AMF finally calculates the daily open interest (per underlying contract) by taking the greatest (in absolute terms) between the total long positions and the total short positions and then calculates an average of this value over a period of one year.

Other months' position limit

34. The other months' limit is split into two periods:

a. 21 days before the expiry of the spot month the limit is 10,000 lots which corresponds to 24% of the open interest; and

b. For the rest of the other months period, the position limit is 7,500 lots which corresponds to 18% of the open interest.

Other months' position limit rationale

35. For the other months, the baseline figure is set at 25% of the total open interest in accordance with Article 13 of RTS 21a.

36. The AMF has considered relevant to adjust the baseline downwards in accordance with:

- Article 19(3) of RTS 21a, as the open interest is significantly lower than the deliverable supply (more than 12 times).

- Article 21(1) and more specifically 21(2)(e) of RTS 21a, to reflect macroeconomic or other related factors that influence the operation of the underlying commodity market including the delivery, storage, and settlement of the commodity, as described in paragraph 26 above.

37. For most of the other months, the AMF has set out the limit at 7,500 lots, which corresponds to 18% of the open interest. The AMF decreased the position limit from the initial baseline of 25% to 18%, in light of the aforementioned adjustment factors.

38. The AMF has decided to set a different limit for the other month's during the last twenty-one trading sessions before the expiry of the spot month to take into account the roll of spot month position to other months. Rolling is the transfer of positions from one expiring contract to the next one. This strategy is followed by many participants who want to maintain exposure on the most liquid contract, usually the first contract to expire. As maturity approaches, spot month positions will decrease, while other month's positions will temporarily increase. Once the maturity date has passed, the second maturity becomes the new first maturity (spot month), and all other month's positions decrease.

39. Since the roll of positions is typically spread over the three to four weeks preceding the expiry of the spot month, the other months' limit is temporarily increased during the last twenty one trading days before the expiry of the spot month by 2,500 lots, a quantity equivalent to the maximum position limit allowed on the spot month during the last 12 days (so that this quantity on the expiring contract can be transferred to the other month's contract before it becomes the new spot month).

40. All the other potential adjustment factors set out in RTS 21a have been considered by the AMF and were not regarded as material or relevant to require additional adjustments from the baseline.

41. Based on the above, the AMF considered that it was appropriate to set the other month' limit at 24% of the open interest representing 10,000 lots during the last twenty-one days before the spot month expiry and to set the limit at 18% of the open interest representing 7,500 lots for the rest of the other months' period.

V. ESMA's assessment

42. This Opinion concerns positions held in Corn futures and options.

43. ESMA has performed the assessment based on the information provided by the AMF.

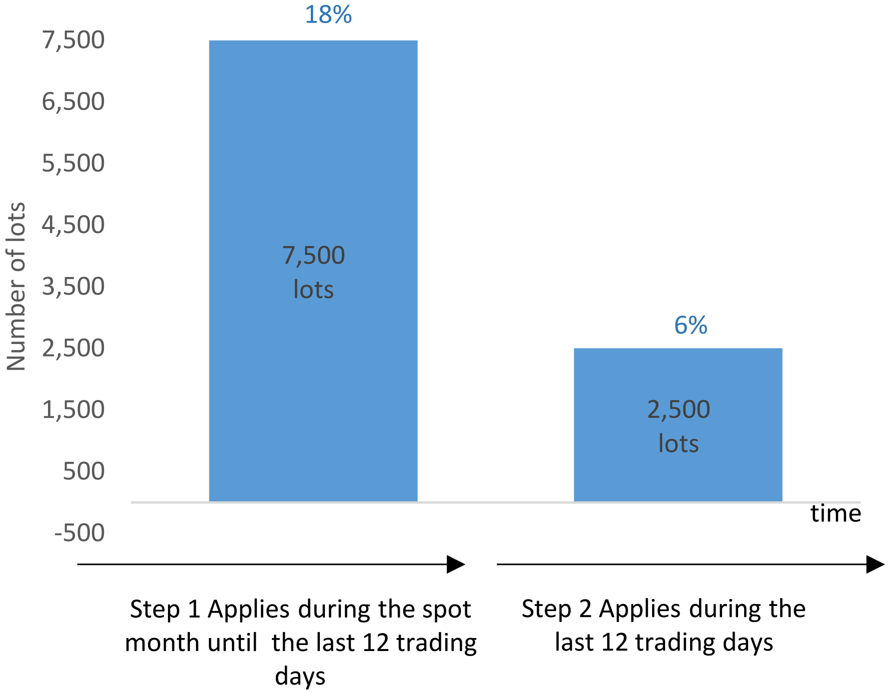
44. For the purposes of this Opinion, ESMA has assessed the compatibility of the new position limits the AMF intends to set according to Article 57(4) of MiFID II with the objectives of Article 57(1) of MiFID II and with the methodology for calculation of position limits established in RTS 21a, in accordance with Article 57(3) of MiFID II.

Compatibility with the methodology for calculation of position limits established in RTS 21a in accordance with Article 57(3) of MiFID II

45. The AMF has set two position limits for the spot and two position limits for the other months.

<u>Spot month position limit</u>

Spot months' limit applying during the lifetime of a corn contract



*Position limit as % of Open Interest

46. The calculation of the deliverable supply is based on average data over the last five years. As four expiries are traded each year, the yearly available deliverable supply has been divided by four. The calculation of deliverable supply is consistent with Article 12(2)(b) of RTS 21a that sets out that "Competent authorities shall determine the deliverable supply (…) by reference to (…); (b) a one to five-year period immediately preceding the determination for an agricultural commodity derivative".

47. ESMA considers that the assessment by which the underlying commodity in the Euronext corn contract does not qualify as food for human consumption is relevant within the scope of Article 11(3) of RTS 21a as the contract specifications refer to corn for cattle feed and industrial use.

48. ESMA notes that the spot month limit is based on overall open interest as the deliverable supply (437,329 lots) is substantially higher than the total open interest (41,647 lots). This is consistent with Article 11(1) of RTS 21a.

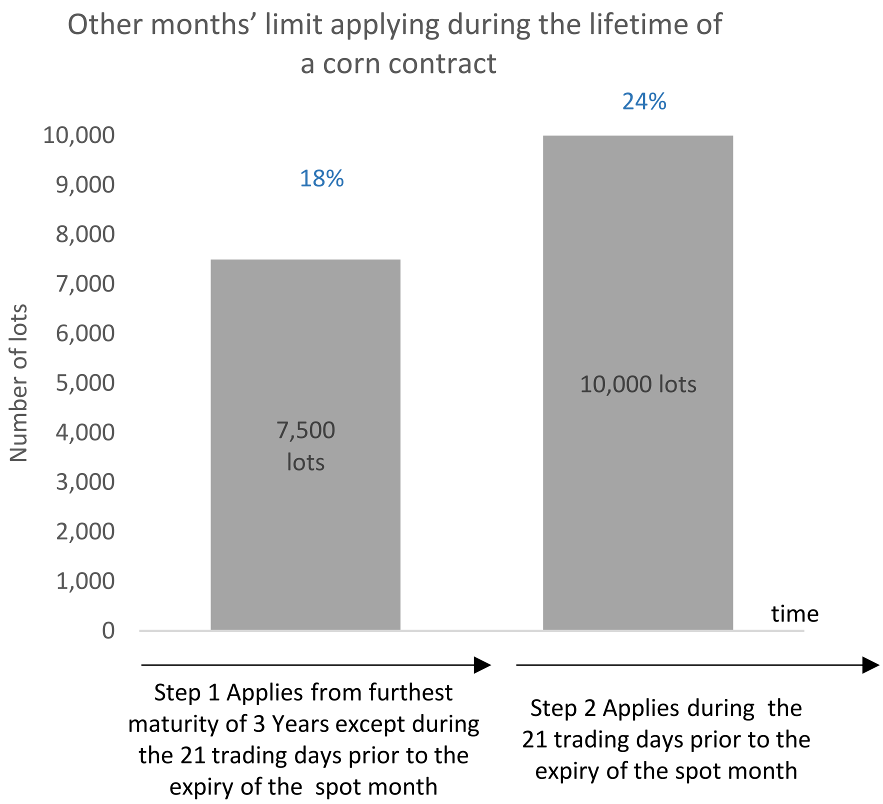
49. Setting different position limits for different times within the spot month period which decrease on an incremental basis towards the maturity of the contract is consistent with Articles 11(2) of RTS 21a.

50. The gliding path limits are within the boundaries established in Article 16 of RTS 21a.

51. The baseline figure of 25% has been adjusted downwards to take into account the significant difference between deliverable supply and open interest and reflects macroeconomic or other related factors that influence the operation of the underlying commodity market including the delivery, storage, and settlement of the commodity. These downward adjustments are consistent with Article 19(3) and 21(1) of RTS 21a, respectively.

52. The position limit applicable to the last twelve trading days before the expiry of the spot month has been adjusted downwards to 2,500 lots, i.e. to 6 % of the deliverable supply. This significant downward adjustment aims at reducing delivery risk and ensuring an orderly settlement of the contract. This downward adjustment is consistent with Article 21(2)(b)(iii) of RTS 21a.

Other months' position limits



*Position limit as % of Open interest

53. The open interest has been calculated by the AMF on the position reports daily received in accordance with Article 58 of MiFID II. The daily average open interest has been calculated adding the open interest from each identified related contract that can be aggregated. ESMA considers such aggregation sensible, as the contracts will be covered by the same limits. The daily average open interest has been calculated over one year, from January 2022 until December 2022. ESMA considers that such calculation of open interest by the competent authority provides an accurate and reliable figure and promotes convergence in the setting of position limits by competent authorities. ESMA also considers such approach consistent with Article 14 of RTS 21a.

54. For most of the other months', the baseline figure of 25% has been adjusted downwards to 7,500 lots, i.e. 18% of the open interest, to take into account the significant difference between deliverable supply and open interest and to reflect macroeconomic or other related factors that influence the operation of the underlying commodity market including the delivery, storage, and settlement of the commodity. These downward adjustments are consistent with Article 19(3) and 21(1) of RTS 21a, respectively.

55. ESMA considers that temporarily adjusting the other months' limit upwards during the 21 trading days preceding the expiry of the spot month is a reasonable approach to allow for the rolling of positions from the spot month contract to the other months' contract and takes into account the objective characteristics of the market, as clarified in Recital 18 of RTS 21a.

56. Consequently, these position limits have been set following the methodology established by RTS 21a.

Compatibility with the objectives of Article 57(1) of MiFID II

57. These position limits have been set following the methodology established by RTS 21a.

58. ESMA has found no evidence indicating that the proposed position limits are not consistent with the objectives of preventing market abuse and supporting orderly pricing and settlement conditions established in Article 57(1) MiFID II. The AMF has given due consideration to the orderly delivery and settlement of the corn contract by reducing the authorised position limit during the last twelve trading days before the expiry of the spot month. The limits set on the quantity of corn each person may make or take delivery of should prevent any person from accumulating a dominant position such that persons are enabled to squeeze the market through restricting access to corn and will support orderly pricing and settlement conditions.

59. Overall, the position limits set for the spot month and the other months achieve a reasonable balance between the need to prevent market abuse and to ensure an orderly market and orderly settlement while ensuring that the development of commercial activities in the underlying corn market and the liquidity of Euronext corn futures and options are not hampered.

VI. Conclusion

60. Based on all the considerations and analysis presented above, it is ESMA's opinion that the spot month position limit complies with the methodology established in RTS 21a and is consistent with the objectives of Article 57 of MiFID II. The other months' position limit also complies with the methodology established in RTS 21a and is consistent with the objectives of Article 57 of MiFID II.

Done at Paris, 20 April 2023

Verena Ross

Chair

For the Board of Supervisors