

# Joint call for expression of interest: Consultative Working Group for ESMA's Commodity Derivatives Working Group Consultative Working Group for ESMA's Secondary Markets Working Group Consultative Working Group for ESMA's Post Trading Working Group

## Background

1. ESMA is today launching the process to establish three Consultative Working Groups (CWGs) for the Secondary Markets Working Group (SMWG), the Commodity Derivatives Working Group (CDWG) and the Post Trading Working Group (PTWG). ESMA is therefore calling for expressions of interest from stakeholders by 5 June 2024 to become a member of one of those three CWGs.
2. ESMA has established the CWGs to benefit from the expertise of stakeholders who are specialised in the topics of (i) secondary markets, (ii) commodity derivatives or (iii) post trading, under ESMA's SMWG, CDWG or PTWG remit and with a view to supporting ESMA's objectives of investor protection, market integrity and financial stability through single rulebook work and strengthening supervisory approaches and practices across Member States in the areas of secondary markets, commodity derivatives and post-trading.
3. CWGs are an important part of ESMA's stakeholder outreach formed under the terms of ESMA's Public Statement on Consultation Practices (ESMA34-39-969)<sup>1</sup>. Members of such groups are to be selected following an open call for candidates published on the ESMA website and are appointed for a period of three years. Upon completion of the selection process, ESMA will inform the applicants of the outcome and publish the composition of the 2024 to 2027 CWGs on its website.

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<sup>1</sup> [https://www.esma.europa.eu/sites/default/files/library/esma34-39-969\\_public\\_statement\\_of\\_consultation\\_practices.pdf](https://www.esma.europa.eu/sites/default/files/library/esma34-39-969_public_statement_of_consultation_practices.pdf)

## **ESMA's Secondary Markets Working Group (SMWG), Commodity Derivatives Working Group (CDWG) and Post Trading Working Group (PTWG)**

4. In order to fulfil its mission the Board of Supervisors has established the Markets Standing Committee (MSC) pursuant to Article 41 of ESMAR as a permanent internal committee. The MSC contributes to ESMA's mission by addressing issues related to (a) the structure, transparency and efficiency of secondary markets for financial instruments and commodity derivative markets; (b) post-trading market infrastructures, processes and operations; and (c) market integrity and surveillance.
5. The Markets Standing Committee (MSC) has established, in particular, the following working groups with their own terms of reference:
  - a. **Secondary Markets Working Group (SMWG)** which contributes to ESMA's mission by
    - assessing the impact of developments in the market structure to the transparency and efficiency of trading in relation to all types of financial instruments;
    - monitoring the efficient implementation of the MiFID II and MiFIR provisions when they relate to trading rules, transparency, infrastructures and microstructures of secondary markets;
    - preparing, revising or updating technical advice and draft technical standards applicable to its area of competence;
    - preparing the review reports foreseen in Article 90 of MiFID II and Article 52 of MiFIR, including follow-up work;
    - contributing to the consistent application of MIFID II and MIFIR and related requirements for market participants; and
    - monitoring the application of the pre-trade transparency waivers for equity, equity-like and non-equity financial instruments and produce the reports foreseen in Articles 4 and 9 of MiFIR. Moreover, the SMWG also monitors the application of the deferred publication arrangements for equity, equity-like and non-equity financial instruments.
  - b. **Commodity Derivatives Working Group (CDWG)** which contributes to ESMA's mission by
    - analysing trends and developments in commodity derivative markets and assessing potential risks for investors, markets, and financial stability;
    - monitoring and analysing significant regulatory and industry developments relevant for all types of commodity financial markets (such as any legislative changes for energy markets, emission allowances, agricultural commodities and other relevant markets;

- implementing EU legislation in the commodity derivatives field, fostering supervisory convergence, facilitating the implementation process of competent authorities by coordinating convergent implementation across the Union in particular by discussing specific supervisory cases and by assisting the implementation of provisions imposing a direct obligation on ESMA;
- analysing issues of co-operation between financial regulators/ESMA and other regulatory and supervisory authorities such as the Agency for the Cooperation of Energy Regulators (ACER) and national energy regulators;
- providing support to the EU legislative process, including amendment to implementing measures relevant to commodity derivatives by providing technical advice to the European Commission;
- preparing, revising or updating draft ESMA technical standards; and
- providing of additional input to the European Commission where necessary.

c. **Post Trading Working Group (PTWG)** which contributes to ESMA's mission by

- implementing the European Markets Infrastructure Regulation (EMIR) and the Central Securities Depositories Regulation (CSDR);
- co-ordinating issues such as settlement discipline and Target2-Securities (T2S);
- preparing, revising or updating, where necessary, technical standards under EMIR, CSDR or MIFIR (for post-trading aspects);
- monitoring and improving settlement efficiency;
- monitoring and assessing the risks related to internalised settlement;
- monitoring the derivative activity of financial and non-financial counterparties and their respective systemic relevance as a group;
- facilitating co-ordinated action and promoting the building of a common culture on supervision and enforcement of post-trading requirements, through the enhancement of supervisory convergence and an exchange on supervisory practices, notably in the field of authorisation and supervision of CSDs, internalised settlement reporting or the implementation and supervision of counterparties' compliance with the OTC derivative requirements under EMIR; and
- providing input for Peer reviews (in relation to the mandate under CSDR for a Peer Review every three years, and under the responsibility of the Peer Review Committee.

6. In line with the ESMA Strategy 2023-2028<sup>2</sup>, the SMWG, the CDWG and the PTWG will consider in all its activities how to contribute to effective financial markets and financial stability, supervision and supervisory convergence, retail investor protection, sustainable finance as well as to technological innovation and increased use of data.

### **Description of the main CWG tasks**

7. ESMA expects members of the CWGs to provide expert advice to the (i) SMWG, to the (ii) CDWG or to the (iii) PTWG in the field of their expertise.
8. In order to do this, the CWGs may be called upon to provide input at all stages of the SMWG, CDWG or PTWG work such as any policy development process.
9. The MSC may also ask the CWGs to provide technical assistance.

### **Terms of appointment**

10. CWG members are selected for a renewable term of three years.
11. CWG members are appointed on a personal basis and are bound by confidentiality requirements in relation to all non-public information they are provided with while performing their tasks.
12. CWG members are expected to attend all meetings and to take an active part in discussions.
13. At the start of each meeting, any member whose participation in the group's deliberations would raise a conflict of interest on a specific item on the agenda, other than the fact of their current positions with organisations, shall inform the Chairperson and disclose the conflict to the group in a transparent manner.
14. ESMA reserves the right to exclude at any time from the CWG those members who breach the code of conduct set out in the application form, particularly when it comes to a minimum level of attendance, breaches of confidentiality or misrepresentation of their status of CWG member.

### **Selection criteria**

15. This call for expressions of interest is open to any person with expertise in the secondary markets, commodity derivatives or post trading fields that represents the categories listed in paragraph 17 and that also complies with the eligibility requirements in paragraphs 18 and 19.

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<sup>2</sup> [ESMA22-439-1076 ESMA Strategy 2023-2028](https://www.esma.europa.eu), available at [www.esma.europa.eu](https://www.esma.europa.eu)

16. Each CWG will be composed of a maximum of 20 individuals representing a balanced proportion of relevant areas of expertise.

17. Whilst primarily focusing on the qualifications of the members in terms of knowledge and experience, the selection of CWG members will aim to ensure, to the extent possible, an appropriate geographical and gender balance, and representation of all relevant stakeholders across the EU affected by the work of ESMA in these three areas. In particular, ESMA will be seeking to ensure a balanced representation of the following types of stakeholder for each type of CWG:

a. **SMWG CWG:**

- a. financial services' intermediaries;
- b. market infrastructure providers (including trading venues, CCPs and connectivity providers);
- c. issuers;
- d. proprietary traders, including algo/HFT traders;
- e. institutional investors;
- f. data reporting service providers; and,
- g. representatives of consumer associations or non-governmental organisations, retail investor associations, as well as academics focussing on secondary markets.

b. **CDWG CWG:**

- a. financial services intermediaries;
- b. market infrastructure providers / trading venues;
- c. producers / entities hedging their commercial transactions in commodity derivatives markets;
- d. specialised commodity / commodity derivatives trading firms;
- e. institutional investors; and
- f. representatives of consumer / retail investor associations, non-governmental organisations or academics focusing on commodity derivative-related matters.

c. **PTWG CWG:**

- a. post trading market infrastructure providers (including CSDs and CCPs);

- b. providers of post trading services (including custodians, clearing members, providers of ancillary services, providers of post trade risk reduction services, providers of collateral management services);
- c. users of post trading services (including large and small financial counterparties, asset managers, non-financial counterparties, pension scheme arrangements, issuers);
- d. representatives of consumer associations, non-governmental organisations and retail investor associations as well as; and
- e. academics with a proven track-record on post-trading matters.

ESMA will also take into account the potential for any conflicts of interest in its selection of CWG members.

18. Assessment of eligibility will be based on a minimum of four years of relevant professional experience.

### **Selection process**

19. Applications will be accepted from natural persons only. Only the natural person selected will be admitted to the CWG. No substitution (alternates) of natural persons will be permitted throughout the full duration of the appointment, or during possible renewals.
20. Applicants that are not selected may be included on a list of experts, with the possibility of being invited to become a CWG member at a later stage.
21. ESMA's Executive Director, in consultation with the Head of the Markets and Digital Innovation Department and the Chairs of the SMWG, CDWG or PTWG for the respective CWGs, will make the final selection of CWG members.

### **Place of provision of services**

22. Each CWG will meet about twice a year and meetings, organised by ESMA, will normally take place virtually or at ESMA's premises in Paris. CWG members are expected to attend all meetings organised by ESMA.

### **Compensation, travel expenses**

23. There is no compensation for being a member of a CWG.

24. CWG members are expected to meet their own travel expenses. However, members representing retail investors/customers, trade unions, non-governmental organisations (NGOs), non-profit organisations, shareholder associations, or small or medium enterprises, or who are academics may be eligible for reimbursement of travel expenses and a daily allowance in accordance with ESMA policy (ESMA63-46-710<sup>3</sup>).

#### **Application Procedure, closing date**

25. Relevant stakeholders meeting the required selection criteria and wishing to apply for a position in one of the CWGs are invited to submit, in English:

- a. a completed, signed application form ([CDWG application form](#), [SMWG application form](#) and [PTWG application form](#)) and
- b. a detailed curriculum vitae (CV), preferably in the EU CV format – please find a link to the relevant template: <https://europa.eu/europass/en>

26. Unclear or incomplete applications will not be considered.

27. Applications must be submitted by EU Survey **by no later than 5 June 2024** at this link <https://ec.europa.eu/eusurvey/runner/976f4bb6-fcc6-e3a1-8995-2bb6fac23c41> .

28. Applicants will be informed in due course following the conclusion of the application process.

29. ESMA will publish the composition of the CWGs on its website.

30. Applicants are obliged to keep ESMA informed of any change in their situation or address, so that their application may be kept up to date.

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<sup>3</sup>[https://www.esma.europa.eu/sites/default/files/library/esma63-46-710\\_policy\\_on\\_the\\_reimbursement\\_for\\_external\\_persons.pdf](https://www.esma.europa.eu/sites/default/files/library/esma63-46-710_policy_on_the_reimbursement_for_external_persons.pdf)