

OPINION on position limits on RAPESEED contract

I. Introduction and legal basis

1. On 2 June 2017, the European Securities and Markets Authority (“ESMA”) received a notification from the Autorité des Marchés Financiers (“AMF”) under Article 57(5) of Directive 2014/65/EU on markets in financial instruments¹ (“MiFID II”) regarding the exact position limits the AMF intends to set for the RAPESEED commodity derivative contract in accordance with the methodology for calculation established in Commission Delegated Regulation (EU) 2017/591 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 in commodity derivatives² (“RTS 21”) and taking into account the factors referred to in Article 57(3) of MiFID II.
2. ESMA’s competence to deliver an opinion is based on Article 57(5) of MiFID II. 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)³ (“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: other (OTHR)

Name of trading venue: EURONEXT PARIS

MIC: XPAR

Venue product code(s): ECO, OCO

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) 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).

³ 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), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15. 12.2010, p84).



III. Market description by the competent authority

3. The MATIF rapeseed contract (also known as Euronext Rapeseed or European Rapeseed) refers to rapeseed from any origin that can be delivered in Europe.
4. The EU rapeseed production amounted to 20 Mt in 2016/17 (vs 22 Mt in 2015/16), or 29% of the total world production (source USDA World production report). Unlike wheat, the EU is a net importer of rapeseed, with 4 Mt of rapeseed imported and 0.3 Mt exported in 2016/17 (source: EU Balance sheets for oilseeds). The market participants on these derivatives contracts are mostly esterification industrials, cattle feed industrials and European oilseed merchants. The specifications of the Euronext contract in terms of quality correspond to the esterification industry standards.
5. The main characteristics of the supply and demand of rapeseed are:
 - a. Seasonality: European rapeseed crop main harvest takes place in July/August.
 - b. Rapeseed is a mustard crop grown primarily for its seed, the rapeseed is crushed to get rapeseed oil, which is used for biodiesel or human consumption, while the rapeseed meal by-products are used by the cattle feed industrials. Only 10% of the total EU rapeseed production is directly used for human consumption as edible oil or processed by agri-food industrials (source: FAO Food balance sheet, 2013).
 - c. Main European producers are Germany, France and Poland. Worldwide the biggest exporters are Canada, France and Ukraine. Japan, Germany and Mexico are among the biggest importers.
6. The Rapeseed Futures Contract's underlying is rapeseed of all origins, variety 00. The underlying is said to be conventional rapeseed, which is defined as a product containing no genetically modified organisms, or containing genetically modified organisms whose presence is adventitious or technically unavoidable, in accordance with requirements in force under EU Regulations.
7. Expiring months of futures are February, May, August and November. Ten consecutive maturities are listed at any time. At expiry, the future contract is physically delivered at ten different ports in France, Belgium and Germany. Options expire the 15th of the month preceding each maturity of the relevant future (or the preceding business day). The delivery of options being physical, their exercise results in the assignment of the underlying future at the exercise price i.e. the strike price.
8. The delivery capacities referenced by Euronext suffer from relatively few constraints as the contract is delivered on boats (barges) rather than silos. However, the delivery operations can suffer from certain constraints, due to the high dependency on the Rhine river for delivery: out of the eight delivery points (ports) for the underlying, seven are located along tributaries and

distributaries of the Rhine river (along the Moselle in France, the Main and the Elbe in Germany). This dependency led to halts in barge traffic back in 2011 and 2016 due to the low level of the Rhine river which impeded the barges sailing to the ports.

9. The average daily volumes traded in 2016 reached 10,000 lots for futures (vs. 8,400 lots in 2015, source Thomson Reuters) and 1,400 lots for options (vs. 1,300 lots in 2015, source Euronext).

10. Trading in MATIF rapeseed 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

Deliverable supply

11. Deliverable supply amounts to 123,500 lots.

12. Deliverable supply calculation methodology: The AMF has determined the deliverable supply according to the following process:

- a. Data corresponding to the total production and imports of rapeseed into the EU that meet the technical specifications of the Rapeseed Futures Contract over the last 5 years have been collected from European Commission's Directorate General for Agriculture including information from the EU Balance sheets for oilseeds: 24.70 Mt per year on average.
- b. Then, the figure has been time-prorated to take into account the duration of spot month contracts (4 contracts each year i.e. 3 months on average): 6.175 Mt, or 123,500 lots.
- c. As a reference, taking the last 12 months instead of the average on the last 5 years would result in 115,600 lots.
- d. The storage capacity was not considered as a relevant factor to determine the deliverable supply as delivery takes place on barges instead of silos.

Spot month position limit

13. The spot month definition includes 90 calendar days.

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

- a. For the first seventy eight days following the start of the spot month, the position limit is set at 25,000 lots which constitutes 20.2% of the deliverable supply; and

- b. Over the last twelve trading sessions before expiry of the contract the position limit decreases to 7,000 lots, which constitutes 5.7% of the deliverable supply.

Spot month position limit rationale

15. For most of the spot month, the AMF took into account that the baseline figure has to be set at 20% of the deliverable supply when the underlying qualifies as food for human consumption in accordance with Article 9(4) of RTS 21. The AMF considered that rapeseed qualifies as food for human consumption as 10% of EU rapeseed production is directly processed for that purpose, for instance, as edible oil.
16. Hence, the AMF has set the spot month limit for its first seventy eight days at 25,000 lots, which corresponds to 20.2% of the deliverable supply.
17. On top of the general position limit for most of the spot month, the AMF has set a second position limit which applies only to the last twelve sessions before expiry, taking into account the following factors:

- a. The characteristics of the underlying commodity market (Article 20) and the potential restrictions on the deliverable supply (Article 17): the AMF considered that, at expiry, the underlying commodity can be delivered in 10 different ports in France, Belgium and Germany. Whereas storage capacities do not create any restriction as the underlying is delivered directly on barges rather than silos, the AMF noted that delivery operations may suffer from specific natural constraints, for example related to the barge's traffic which experienced halts in 2011 and 2016 due to the low level of the Rhine river. The vast majority of the underlying is delivered through ports (seven out of eight) located along tributaries or distributaries of the the Rhine river.

The AMF considered that in such circumstances market participants would be forced to unwind their positions instead of going to delivery since there would not be enough rapeseed to ensure orderly settlement, as foreseen in Article 17.

As a consequence, the AMF considered the position limit set out at 5% of the deliverable supply for the twelve trading days prior to expiry as appropriate according to Articles 17 and 20(b)(i) and (ii) of RTS 21. For ease of application, this temporary step limit of the spot month was rounded from 6,175 lots to 7,000 lots, or 5.7% of the deliverable supply.

- b. The overall open interest (Article 18): the AMF has also considered the significant difference between the deliverable supply and the open interest at delivery. Setting the spot month limit at the baseline standard of 20% over the entire spot month would lead to a limit of 25,000 lots, way above the highest total spot month open interest actually observed in rapeseed towards the expiry over the last five years. As the maximum spot month open interest observed over that period cor-



responded to 1% of the deliverable supply, the AMF considered that a spot month limit set at the level of 5.7% (7,000 lots) was appropriate.

18. Maturity of the contract (Article 16): the AMF did not consider the lifetime of the spot month, 3 months, short compared to the one-month duration of most commodity contracts. AMF did not apply any adjustment under this Article.

Other months' position limit

Open interest

19. The open interest amounts to 77,800 lots.
20. The open interest calculation methodology: the average of the daily open interest on Rapeseed Futures Contract for all maturities from 4 January 2016 to 30 December 2016, as published by Thomson Reuters.

Other months' position limit:

21. The other months' limit is split into two periods:
- a. 21 days before the expiry of the spot month the limit is 25,000 lots which correspond to 32.1% of the open interest; and
 - b. For the rest of the other months' period the position limit is 20,000 lots, which corresponds to 25.7% of the open interest.

Other months' position limit rationale:

22. The number of market participants (Article 19 of RTS 21): in absence of any reliable source at this stage, the number of participants could not be assessed. There are neither market makers based on the MiFID II definition, nor liquidity providers recognised by the trading venue. Given the lack of market makers and according to Article 19(2), "the competent authority may establish different position limits for different times within (...) the other months (...)". AMF has used this possibility to set two limits within the other months' period.
23. For most of the other months, the AMF has set out the regular limit for the other months' at 20,000 lots, which corresponds to 25.7% of the open interest. The AMF raised the position limit from 25% to 25.7%, reaching 20,000 lots to facilitate the application of the position limit.
24. The AMF also noted that the open interest (77,800 lots) is significantly lower than the deliverable supply (123,500 lots) and considered that this requires the limit to be adjusted upwards for certain periods according to Article 18(3) of RTS 21. This temporary upward adjustment permits participants holding positions in the spot month contract coming close to expiry but not interested in going to delivery to roll back their positions into the first other months' contract that will soon become a spot month contract.

25. The AMF proposes a temporary increase of the all other months' limit until the expiry of the spot month contract for the positions on the current spot month that roll into the contract that will become the next spot month and have to be added to those of all other months' futures. After this, the rolled position becomes the new spot month and the all other months' limit can go back to its normal value.
26. Since the roll of positions on the rapeseed contract is typically spread over the three to four weeks preceding the expiry of the spot month, the AMF proposes, for the three weeks prior to expiry of the contract, to increase the other months' limit to 35% of the open interest. The AMF lowered the position limit from 35% to 32.1% of the open interest, i.e. at 25,000 lots to facilitate the application of the position limit.
27. Maturity of the contract (Article 16): the maximum maturity of the contract is three years. The all other months comprise nine separate expiries. By comparison, more than 100 separate expiries are listed in some series of gas derivatives. Therefore, AMF did not consider the number of separate expiries as large and no adjustments were applied under this article.

V. ESMA's Assessment

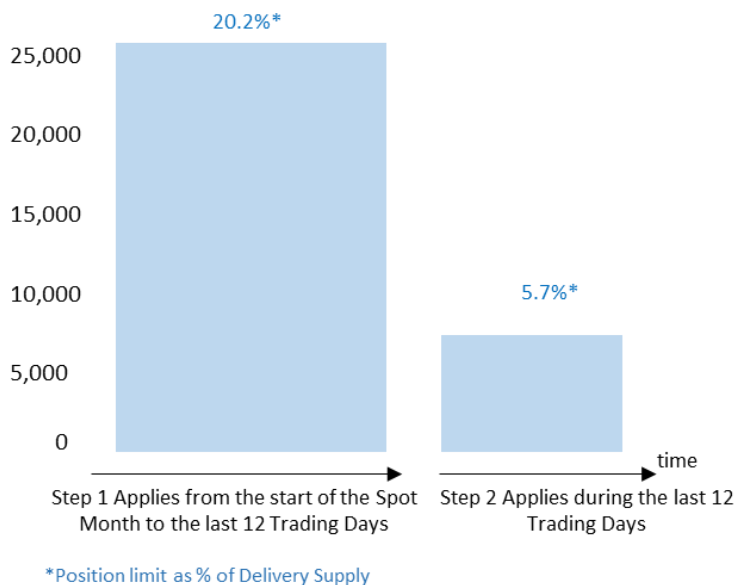
28. This Opinion concerns positions held in rapeseed futures and options.
29. ESMA has performed the assessment based on the information provided by the AMF.
30. For the purposes of this Opinion, ESMA has assessed the compatibility of the intended position limits with the objectives of Article 57(1) of MiFID II and with the methodology for calculation of position limits established in RTS 21, in accordance with Article 57(3) of MiFID II.

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

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

Spot month position limit

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



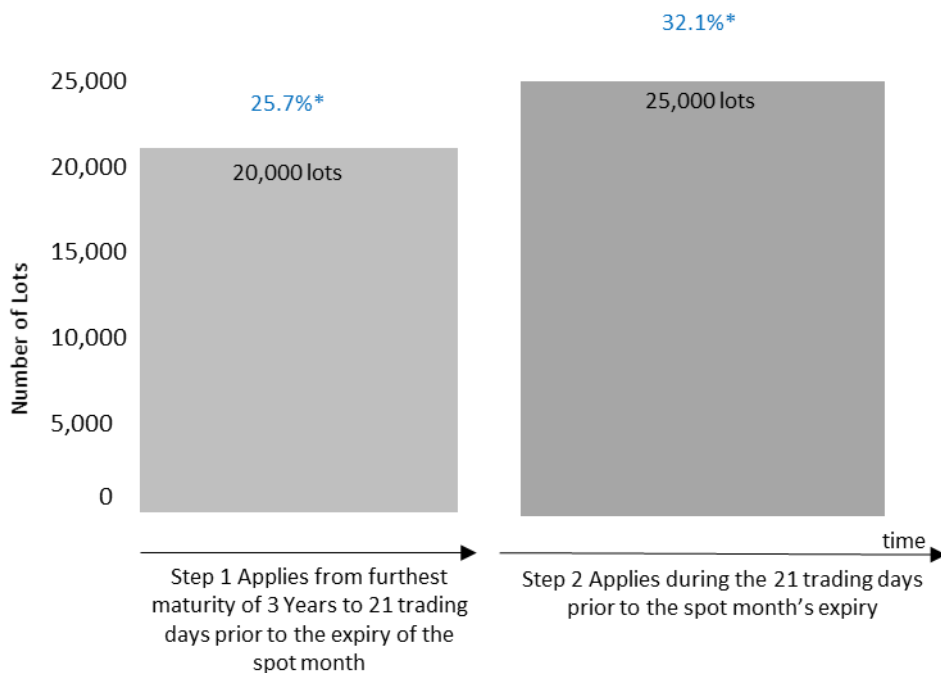
31. The calculation of the deliverable supply is based on average data over the last five years. As four expiries are traded each year, the yearly available deliverable supply has been divided by four. The calculation of deliverable supply is consistent with Article 10(2) of RTS 21 which sets out that “the deliverable supply must be determined by reference to the average monthly amount of the underlying average commodity available for delivery over the one year period immediately preceding the determination”.
32. The baseline figure for the spot month limit is 20% since the underlying commodity qualifies as food intended for human consumption. ESMA considers that since 10% of the EU production is directly intended for human consumption the contract is within the scope of Article 9(4) of RTS 21 and therefore, the baseline should be set at 20%.
33. Setting different position limits for different times within the spot month period is consistent with Articles 9(3) and 19(2) of RTS 21.
34. The gliding path limits are within the boundaries established in Article 14 of RTS 21.
35. The baseline figure of 20% has been maintained as the regular position limit for the first 78 days of the spot month in accordance with Article 9(4) of RTS 21 with a small adjustment to facilitate the application of the limit.
36. Compared to the baseline figure, the position limit for the spot month has been set at 5.7% to 7,000 lots over the last twelve trading days preceding the expiry of the spot month

contract. ESMA considers such adjustment consistent with RTS 21 since it was based on two different grounds:

- a. The AMF considered that such position limit reduces the delivery risk for orderly settlement that may arise due to the method and concentration of transportation and delivery of the physical commodity, which can be affected by natural conditions, such as a drought affecting the rivers through which it takes place. Such downward adjustment is considered consistent with Articles 17 and 20(2)(b) of RTS 21.
- b. Additionally, the proposed position limit takes into account the significant difference between deliverable supply and open interest and ensures consistency with the actual positions observed in the past, as referred to in Article 18 of RTS 21.

Other months' position limit

Other months' limit applying during the lifetime of a Rapeseed contract



*Position limit as % of Open interest

37. The open interest was calculated as the average value of the open interest published by a data vendor over 2016. ESMA considers such an approach sensible in this case since the average over a period gives a more stable measure of open interest and considers such approach consistent with Article 12 of RTS 21.

38. Two position limits are established for the other months' limit: one for the 21 trading days preceding each expiry of the spot month and one for the rest of the other months' period. Setting different position limits for different times within the other months period is consistent with Article 19(2) and the related recital (13) of RTS 21.
39. Over the 21 trading days preceding each expiry of the spot month, the baseline figure of 25% has been adjusted upwards to 25,000 lots, i.e. 32.1% of the open interest, to accommodate the aggregation by traders of their positions rolled on the next spot month with the positions held on the other months that will become spot month. Such adjustment is based on the low volume of open interest in comparison to the deliverable supply. This is consistent with Article 18(3) of RTS 21 and with the related recital (20) which provides that significant discrepancies between open interest and deliverable supply justify adjustments from the baseline applicable to the other months' limit in order to avoid disorderly markets.
40. Consequently, the position limits have been set following the methodology established by RTS 21.

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

41. ESMA has found no evidence indicating that the proposed position limits are not consistent with the objectives established in Article 57(1) MiFID II. The AMF has given due consideration to the orderly delivery and settlement of the rapeseed 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 rapeseed each person 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 rapeseed and will support orderly pricing and settlement conditions, including market distorting positions.
42. 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 orderly market and orderly settlement while ensuring that the development of commercial activities in the underlying rapeseed market or the liquidity of Euronext rapeseed futures and options are not hampered.

VI. Conclusion

43. Based on all the considerations and analysis presented above, it is ESMA's opinion that the spot month position limits do comply with the methodology established in RTS 21 and are consistent with the objectives of Article 57 of MiFID II. The other months' position limits do comply with the methodology established in RTS 21 and are consistent with the objectives of Article 57 of MiFID II.



Done at Paris, 10 August 2017

Steven Maijoor

ESMA Chair