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| Reply Form to the Consultation Paper  |
| MiFID II review report on position limits and position management Draft Technical Advice on weekly position reports |

**Responding to this paper**

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex 1. Comments are most helpful if they:

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

ESMA will consider all comments received by **8 January 2020.**

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input - Consultations’. Please follow the instructions given in the document ‘Reply form for the consultation paper on “MiFID II review report on position limits and position management and draft technical advice on weekly position reports’ also published on the ESMA website.

**Instructions**

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

1. Insert your responses to the questions in the Consultation paper in the present response form.
2. Please do not remove tags of the type <ESMA\_QUESTION\_WPR\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
4. When you have drafted your response, name your response form according to the following convention: ESMA\_WPR\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_WPR\_ABCD\_RESPONSEFORM.
5. Upload the form containing your responses, in Word format, to ESMA’s website ([www.esma.europa.eu](http://www.esma.europa.eu) under the heading “Your input – Open consultations” 🡪 “Call for Evidence on Position limits and position management in commodities derivatives”).

**Publication of responses**

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

**Data protection**

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading [Legal Notice](http://www.esma.europa.eu/legal-notice).

**Who should read this paper**

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

**General information about respondent**

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| --- | --- |
| Name of the company / organisation | Wiener Börse AG |
| Activity | Regulated markets/Exchanges/Trading Systems |
| Are you representing an association? |[ ]
| Country/Region | Austria |

**Introduction**

***Please make your introductory comments below, if any***

<ESMA\_COMMENT\_WPR\_1>

TYPE YOUR TEXT HERE

<ESMA\_COMMENT\_WPR\_1>

**Questions**

**Part I**

1. : Which option (Option 1 or Option 2) do you support for dealing with competing contracts? Please explain why. If you support Option 1, do you have any suggestions for amending the definition of “same contract” in Article 5(1) of RTS 21? If you support another alternative, please explain which one and why.

<ESMA\_QUESTION\_WPR\_1>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_WPR\_1>

1. : Do you agree that the C(6) carve-out creates an unlevel playing field across trading venues and should be reconsidered? If not, please explain why.

<ESMA\_QUESTION\_WPR\_2>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_WPR\_2>

1. : Do you agree that the position limit framework should not apply to securitised derivatives? If not, please explain why.

<ESMA\_QUESTION\_WPR\_3>

**Yes, Vienna Stock Exchange agrees with the assessment of ESMA and fully supports the recommendation of excluding securitised  derivatives from the scope of position limits in Article 57 of MiFID II. Our opinion is based on the following arguments:**

1. **Position limits are not an appropriate instrument to prevent market abuse.**
2. **As securitised derivatives are mainly aimed at retail clients, the positions are held by a large number of customers, making cornering of the market almost impossible.**
3. **Securitised derivatives are comparable to ETCs (Exchange Traded Commodities) which do not fall under the position limit regime; accordingly, securitised derivatives should be excluded therefrom as well.**

<ESMA\_QUESTION\_WPR\_3>

1. : Which option do you support to address the negative impact of position limits on new and illiquid commodity derivatives: Option 1 or Option 2? Please explain why. If you support another alternative, please explain which one and why.

<ESMA\_QUESTION\_WPR\_4>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_WPR\_4>

1. : If you support Option 1 and would suggest different or additional criteria to determine whether a contract qualifies as a critical contract, please explain which ones.

<ESMA\_QUESTION\_WPR\_5>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_WPR\_5>

1. : Which open interest and participant threshold would you suggest for qualifying a commodity derivative as a critical one?

<ESMA\_QUESTION\_WPR\_6>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_WPR\_6>

1. : Would you support a position limit exemption for financial counterparties under mandatory liquidity provision obligations? If not, please explain why.

<ESMA\_QUESTION\_WPR\_7>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_WPR\_7>

1. : Would you support introducing a hedging exemption for financial counterparties along the lines described above? If not, please explain why.

<ESMA\_QUESTION\_WPR\_8>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_WPR\_8>

1. : Do you agree with ESMA’s proposals to amend Article 57(8)(b) of MiFID II and to introduce Level 2 measures on position management controls? If not, please explain why.

<ESMA\_QUESTION\_WPR\_9>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_WPR\_9>

**Part II**

1. : Do you agree with the revised proposed minimum threshold level for the open interest criterion for the publication of weekly position reports? If not, please state your preferred alternative for the definition of this threshold and explain why.

<ESMA\_QUESTION\_WPR\_10>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_WPR\_10>

1. : Do you have any comment on the current number of position holders required for the publication of weekly position reports?

<ESMA\_QUESTION\_WPR\_11>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_WPR\_11>