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| Reply form to the Consultation Paper on the amendments to certain technical standards for commodity derivatives  |
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**Responding to this paper**

ESMA invites comments on all matters in this consultation paper and in particular on the specific questions. 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 **23 August 2023.**

**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. Use this form and send your responses in Word format (**pdf documents will not be considered except for annexes**);
3. Please do not remove tags of the type <ESMA\_QUESTION \_PMPR\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
4. 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.
5. When you have drafted your response, name your response form according to the following convention: ESMA\_PMPR\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ‘ABCD’, the response form would be entitled ESMA\_PMPR\_ABCD\_RESPONSEFORM.
6. Upload the form containing your responses, **in Word format**, to ESMA’s website (www.esma.europa.eu under the heading “Your input – Open Consultations” -> “Consultation Paper on the amendments to certain technical standards for commodity 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**

# 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 | Intercontinental Exchange (‘ICE’) |
| Activity | Regulated markets/Exchanges/Trading Systems |
| Are you representing an association? |[ ]
| Country/Region | Netherlands |

**Questions**

1. Do you agree with ESMA’s proposal to extend the requirements to set, review and report accountability levels to trading venues trading derivatives on emission allowances? Do you have any other comments on ESMA’s proposed amendments? Please elaborate.

<ESMA\_QUESTION\_PMPR\_1>

Intercontinental Exchange (‘ICE’) agrees with the ESMA proposal to extend the requirements to set, review and report accountability levels to trading venues offering derivatives on emission allowances. Following the publication of the ESMA technical standards for commodity derivatives[[1]](#footnote-2) in 2021 and in line with the policy recommendation to extend position management controls to EUA derivatives in ESMA’s final report on the EU Carbon Market[[2]](#footnote-3), ICE Endex revised its framework for position management controls in April 2022. As part of the revision, all derivatives traded on ICE Endex, including derivatives based on emission allowances, have since been subjected to position management controls.

<ESMA\_QUESTION\_PMPR\_1>

1. Do you foresee any challenges with the use of JSON format comparing to XML? Please provide estimates of the costs and benefits (short- and long term) related to potential transition to JSON?

<ESMA\_QUESTION\_PMPR\_2>

ICE does not envisage any significant challenges in using a JSON format file as opposed to xml.

<ESMA\_QUESTION\_PMPR\_2>

1. Do you agree with the other proposals to change ITS 4? Please use the reference number in the table above to provide comments on a specific proposal. In relation to the proposed change 5, are there other units of underlying to be added to the existing list including for reporting the information on emission allowances? In relation to the proposed change 7, are there other position types that should be added to provide more granular reporting, beyond the existing (futures, options and other)? In relation to the proposed change 8, do you foresee any scenarios in which the possibility to use the National ID should be retained?

<ESMA\_QUESTION\_PMPR\_3>

ICE believes that all positions in TTF gas derivatives are being reported in MWh today and can be compared across trading venues. Unclarity may arise from the naming structure where the only schema provided was one published by the FCA which limited the units of measure to “lots”, “units” and “other”. ICE Endex therefore reports positions in MWh using the unit of measure of “other”.

The proposed changes to ITS 2 may create an issue that is not documented in the consultation. Today, futures based on emission allowances are categorised as Position Type “EMIS”. EMIS positions only have a position maturity of “SPOT”. With the suggested withdrawal of the EMIS category, emission allowance futures will be changed to be Position Type FUTR and will need to be reported with position maturities of SPOT (the spot month contract) and OTHR (all other contract maturities). ICE strongly recommends specifying that in emissions allowance futures the spot month of a contract is the December maturity, as the main futures contract maturity traded in emissions allowances is typically the December contract. This approach is in line with ICE’s position management arrangements, which sets separate accountability levels for the December emission allowances contract (the spot month contract) and all other contract maturities.

Without the above-described correct identification of the spot month contract in emission allowance futures, ICE does not support withdrawing the EMIS category. The incorrect classification of the spot month contract would create an artificial division that doesn’t reflect how the emission allowance futures market operates.

ICE has no issues with the other changes to the daily and weekly reports.

<ESMA\_QUESTION\_PMPR\_3>

1. Do you support the draft Technical Advice related to Article 83 of CDR 2017/5654?

<ESMA\_QUESTION\_PMPR\_4>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_PMPR\_4>

1. Technical standards for commodity derivatives, 19 November 2021. ESMA70-156-4710. [↑](#footnote-ref-2)
2. ESMA’s final report emission allowances and associated derivatives, 28 March 2022. ESMA70-445-38. [↑](#footnote-ref-3)