

# ESMA clarifies application of position limits pending MiFID II change

The European Securities and Markets Authority (ESMA), the EU's securities markets regulator, is issuing a [public statement](#) on its supervisory approach to position limits for commodity derivatives. The purpose is to clarify the application of position limits and coordinate the supervisory actions of National Competent Authorities (NCAs), pending the legislative change introduced by the MiFID II Recovery Package for commodity derivatives. This legislative change will start to apply in early 2022.

Position limits, under the amended legal provisions, will only continue to apply to agricultural commodity derivatives and critical or significant commodity derivatives. In addition, positions that are objectively measurable as resulting from transactions entered into to fulfil obligations to provide liquidity on a trading venue will be exempted from position limits.

ESMA appreciates that position limits, which the co-legislators have decided to delete to help the recovery from the COVID-19 pandemic, may restrain the development of commodity derivative markets in the European Union, but ESMA cannot disapply the law.

However, considering the upcoming legislative change and other potential impacts on existing position limits, ESMA expects NCAs to not prioritise:

- supervisory actions towards entities holding positions in commodity derivatives, other than agricultural commodity derivatives, with a net open interest below 300,000 lots; and
- supervisory actions towards positions that are objectively measurable as resulting from transactions entered into to fulfil obligations to provide liquidity on a trading venue as per MiFID II.

Further information:

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