

ESMA'S CONSULTATION PAPER
Draft Guidelines on information
to be expected or required to be disclosed
on commodity derivatives markets
or related spot markets under MAR
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AMAFI's response

Association française des marchés financiers (AMAFI) is the trade organisation working at national, European and international levels to represent financial market participants in France. It acts on behalf of credit institutions, investment firms and trading and post-trade infrastructures, regardless of where they operate or where their clients or counterparties are located. AMAFI has more than 120 members operating for their own account or for clients in different segments, particularly organised and over-the-counter markets for equities, fixed-income products and derivatives. Nearly one-third of its members are subsidiaries or branches of non-French institutions. AMAFI, through its Commodities Committee, deals with commodities-related issues which are of interest for its members acting on those markets.

AMAFI has been following closely the revision of the Market Abuse Directive and welcomes the opportunity to answer to ESMA's consultation paper on Guidelines on information to be expected or required to be disclosed on commodity derivatives markets or related spot markets.

I. General observation

AMAFI does understand that the list of information that will be provided by the Guidelines is a non-exhaustive indicative list. However, in a lot of cases, the participants the most likely to be "insider" are people operating in the spot markets. A large part of these participants are not the most familiar with dealing with inside information and the market abuse regulatory framework. Therefore, we do think that, for pedagogical purpose, the list of examples of information likely to be qualified as "*reasonably expected to be disclosed or required to be disclosed*" should be the most complete and detailed.

In this respect, the Guidelines could be improved.

Some examples are limited to a certain type of commodity whereas they could be extended to others types. It is the case for the information about the production, imports, exports, stocks which is relevant not only for agricultural commodities but for all commodities.

In addition, it is noticeable that information relating to major operators in a commodity chain (production, intermediaries and end users) such as corporate events and rumors of financial distress is not provided for whereas it may have a significant price effect on the commodity derivative and the related spot commodity contract.

We would like to underline that the examples proposed in ESMA draft guidelines seem to be very focused on financial market participants. Yet, in commodities markets, information likely to have a price impact is very often held by non financial market participants. Therefore, the guidelines should better cover the obligations pertaining to significant players such as market places, information/data providers subject to embargo. Like public institutions, which disseminate statistics or forecasts liable to have a significant effect on financial markets, are obliged under MAR to disseminate them in an objective and transparent way, we believe that those private players should be within the scope of the same obligation.

II. Answers to specific questions of the consultation paper

3.3 Information considered in the Guidelines

3.3.1 Examples of information relating directly to commodity derivatives

Q1: Do you agree with the examples provided? If not, please explain.

Point 30, on the weekly reports published by operators of trading venues as provided for in article 58(1)(a) by MiFID II:

In so far as information contained in such reports are not granular information (aggregated information by categories of position holders), AMAFI has serious doubt about the fact that it can have a significant price effect. Therefore, we would recommend not putting the weekly report in the list of the Guidelines.

Point 31 b) i), on “exceptional circumstances that relate to the market microstructure such as a change of tick size, strike prices and delivery points”:

AMAFI does not think that change of tick size, strike prices or calendar may have a significant price impact. It may have an impact on volatility, volume or on market structure but not significantly on the price.

On delivery points, AMAFI believes that when a change in the delivery point is leading to an unidirectional change of the interests, for example more sellers in the market, then, such a factor may have an impact on the price.

Point 31 b) iii), on “exceptional circumstances that relate to the market microstructure such as a change in the members of the trading venue entitled to act as market makers or liquidity provider”:

AMAFI does not consider this element as relevant for the purpose of the Guidelines. Actually, such an element may have an impact on liquidity, but not on the price. There, we recommend to take this element out of the list.

3.3.3 Examples of information relating directly to a spot commodity contract

Q9: Can you think of other examples of information that are expected or required to be made public in relation to metal commodities?

Rules of warehouses, such as load-in or load-out rates, and their variations, have an impact on supply availability, which, in turn, affects the price on the short-term part of the curve. They therefore should be added to the list.

This factor is not only relevant for metal commodities but for all commodities, agricultural commodities in particular. Therefore we suggest that it is extended to all commodities.