

Application Form Position Limits Exemption

*This form is intended for entities seeking an exemption from position limits for the following types of positions held in agricultural commodity derivatives or in critical or significant commodity derivatives traded on trading venues and in economically equivalent Over-The-Counter contracts (Article 5:89a, paragraph four, subparagraphs a - c of the Act on the Financial Supervision (Wet op het financieel toezicht, **AFS**):*

- a. Positions held by, or on behalf of, a non-financial entity, and which are objectively measurable as reducing risks directly related to the commercial activity of that non-financial entity (hereafter referred to as type A);
- b. Positions held by, or on behalf of, a financial entity that is part of a predominantly commercial group as referred to in Article 4(1)(65) of Directive 2014/65/EU (**MiFID II**) and is acting on behalf of a non-financial entity of aforementioned group, where those positions are objectively measurable as reducing risks directly related to the commercial activity of that non-financial entity (hereafter referred to as type B);
- c. Positions held by financial and non-financial counterparties for positions that are objectively measurable as resulting from transactions entered to fulfil obligations to provide liquidity on a trading venue referred to in point (c) of the fourth subparagraph of Article 2(4) of MiFID II (hereafter referred to as type C).

A final point worth mentioning relates to other 'transferable securities' as referred to in Article 4(1)(44) part c of MiFID II, and further defined in point 10 of Section C of Annex I of MiFID II (hereafter referred to as type D). These may also be in scope for aforementioned *exemption*, for which another application form should be used (please send an email to hedge_exemptions@afm.nl with subject title 'PLE Application form other transferable securities').

In addition, aforementioned entities/counterparties can also use this form to withdraw an existing position limit exemption.

This form contains three sections: 1. General information, 2. Positions that qualify for a position limit exemption, and 3. Signature.

1. General information and type of application

1.1 Name of the entity/counterparty applying for a position limits exemption:

1.2 Legal Entity Identifier (hereafter LEI) NB: If no LEI available, please provide Chamber of Commerce number:

1.3 Name and function of contact person of the applicant:

1.4 Type of request: Please select the reason to apply by ticking one of the below-displayed boxes:

New application

New application as a result of a significant change; see Article 8, paragraph 6; Article 8, paragraph 7 or Article 9, paragraph 4 of the Delegated Regulation (EU) 2022/1302. Please provide existing reference application number:

Withdrawal of an existing position limit exemption. Please go directly to section 3 'Signature'. Please provide further details of the existing exemption (start date, reference application no etc.):

2. Positions that qualify for a position limit exemption

As mentioned in the introductory section of this form, there are three types of entities (hereafter 'type A', 'type B' or 'type C') which can apply for a position limit exemption. The required information differs per type of entity. As such, the AFM requests to only answer the *relevant* parts of this section to provide the AFM with a clear and concise overview. Therefore, it is important to use the methods for calculating the size of the net position of a person as prescribed in Chapter II of the Delegated Regulation (EU) 2022/1302. The AFM also requests a clear explanation (e.g. clear timestamp) about the recent period to which the specified information relates.

In case of an exemption for a position limit for which the AFM acts as the Central Competent Authority (CCA), please provide the information

on all relevant (on-venue and OTC) positions held by the entity/counterparty.

information which demonstrates how the position reduces risks directly relating to the non-financial entity's commercial activity:

2.1 Main information (required)

Type A

The entity referred to as type A shall submit to the AFM the following

- i. Contract table; Please provide the details of the agricultural commodity derivatives and critical or significant commodity derivative contracts for which you seek an exemption in Table A.

Table A

Required contract details	Entry fields
Name of Commodity Derivative/OTC Contract	
Name of trading venue	
Market Identifier Code (MIC)	
Venue Product Code	
Units (MWh)	
Hedge position of spot-months contracts	
Hedge position of other-months contracts ¹	

¹ For the position value for the 'other-months' contract, positions with different maturities within the other months' period should be netted, as specified in Article 3, paragraph seven, of the Delegated Regulation 2022/1302.

- ii. Please provide a description of the nature and value of the non-financial entity's commercial activities in the commodity to which the commodity derivative for which an exemption is sought is relevant;
- iii. A description of the nature and value of the non-financial entity's activities in the trading of and positions held in the relevant commodity derivatives traded on trading venues and in their economically equivalent OTC contracts;
- iv. A description of the nature and size of the exposures and risks in the commodity which the non-financial entity has or expects to have as a result of its commercial activities and which are or would be mitigated by the use of commodity derivatives;
- v. An explanation of how the non-financial entity's use of commodity derivatives directly reduces its exposure and risks in its commercial activities.

Type B

The entity referred to as type B shall submit to the AFM:

- i. Contract table; Please provide the details of the agricultural commodity derivatives and critical or significant commodity derivative contracts for which you seek an exemption in Table B.

Table B

Required contract details	Entry fields
Name of Commodity Derivative/OTC Contract	
Name of trading venue	
Market Identifier Code (MIC)	
Venue Product Code	
Units (MWh)	

- ii. Provide appropriate information which demonstrates that the parent undertaking has entrusted to the financial entity the trading of commodity derivatives traded on trading venues and their economically equivalent OTC contracts to the financial entity. Explain how this delegation is intended to reduce the exposure and risks in the commercial activities of the non-financial entities within the group.
- iii. Provide information which demonstrates how the position reduces risks directly relating to the commercial activity of the non-financial entities of the same predominantly commercial group, in specific:
 - iv. Describe the nature and value of the non-financial entities' commercial activities in the commodity to which the commodity derivative for which an exemption is sought is relevant.
 - v. Describe the nature and size of the exposures and risks in the commodity which the non-financial entities have or expect to have as a result of their commercial activities, and how these are or would be mitigated by the use of commodity derivatives.

vi. Describe the nature and value of the financial entity's activities in the trading of and positions held in the relevant commodity derivatives traded on trading venues and in their economically equivalent OTC contracts;

vii. Explain how the financial entity's use of commodity derivatives directly reduces the exposure and risks in the non-financial entities' commercial activities;

Type C

The entity referred to as type C shall submit to the AFM the following information which demonstrates how the positions result from transactions entered into to fulfil obligations to provide liquidity in that commodity derivative on a trading venue as referred to in point (c) of the fourth subparagraph of Article 2(4), of MiFID II.

- i. Contract table; Please provide in table C the list of commodity derivatives and further details that fulfil aforementioned obligations.

Table C

Required contract details	Entry fields
Name of Commodity Derivative/OTC Contract	
Name of trading venue	
Market Identifier Code (MIC)	
Venue Product Code	
Units (MWh)	

- ii. Provide a list of the commodity derivatives in which you are engaged in liquidity provision on a trading venue, in accordance with the regulatory requirements or agreements as specified in points (iii) and (iv) of the relevant paragraph.
- iii. Provide the provisions under which a regulatory authority requires you to provide liquidity in commodity derivatives on a trading venue, or provide the written agreement signed with the trading venue that sets out the liquidity provision obligations you must meet per commodity derivative.
- iv. Provide a description of the nature and value of your mandatory liquidity provision activities for each relevant commodity derivative. Include an overview of the expected resulting positions from these activities.
- v. Provide any position limits that have been established within your internal policies for each commodity derivative involved in your mandatory liquidity provision activities.

2.2 Supporting documents

You are not obliged to add additional documents to this application, but if you think that these documents support your application (for example trading data, information used for the ancillary activity notification, and/or information used for the EMIR reporting), please provide us² with the following details:

Number of attached supporting documents:

Name document 1 Number of pages

Name document 2 Number of pages

Name document 3 Number of pages

Name document 4 Number of pages

² To ensure exchanging information online in a secure environment, we are using Cryptshare: <https://www.afm.nl/~profmedia/files/handleiding/cryptshare-manual.pdf>. Cryptshare is an encryption software through which the application form and supporting documents can be encrypted and subsequently send by email to the AFM. In a separate e-mail the user can send the password generated by Cryptshare to the AFM. The manual clearly explains the procedure step by step. Therefore, we highly recommend you to read this manual. Note that it is possible to select the preferred language on the start page of Cryptshare, by simply clicking on the world map icon (e.g. select English) and, if needed, get step-by-step guidance in their selected language when clicking on the 'Help' button.

3. Signature

The signatory must be an authorized legal representative of the entity submitting this form. By submitting this form the undersigned confirms that the entity it represents applies for a position limit exemption as set out in the Article 5:89a, paragraph four of the AFS.

Name of authorized signatory:

Signature of the authorized representative of the applicant:

Date: