

OPINION on position limits on EEX German Power Base contract

I. Introduction and legal basis

1. Article 57(1) of Directive 2014/65/EU on markets in financial instruments (MiFID II)¹ foresees that a commodity derivative other than an agricultural commodity derivative qualifies as a critical or significant commodity derivative when the size of the net open interest is at a minimum 300,000 lots on average over a one-year period. Critical or significant commodity derivatives are subject to position limits.
2. On 14 January 2026, the European Securities and Markets Authority (ESMA) considered that sufficient information was received to assess a notification received from the German Federal Financial Supervisory Authority (BaFin), under Article 57(5) of MiFID II. The notification is regarding the exact position limits BaFin intends to set for the EEX German Power Base contracts² in accordance with the methodology for calculation established in Commission Delegated Regulation (EU) 2022/1302 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the application of position limits to commodity derivatives and procedures for applying for exemptions from position limits³ ("RTS 21a") and taking into account the factors referred to in Article 57(3) of MiFID II.
3. ESMA's competence to deliver an opinion is based on Article 57(5) of MiFID II. In accordance with Article 44(1) of Regulation (EU) 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority)⁴ ("ESMA Regulation"), the Board of Supervisors has adopted this opinion.
4. In this Opinion, ESMA is assessing whether the position limits BaFin intends to set for the EEX German Power Base contracts comply with the methodology established in RTS 21a and are consistent with the objectives of Article 57 of MiFID II.

¹ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU.

² EEX German Power Base contracts include EEX German Power Base Futures and EEX German Power Base Options

³ Commission Delegated Regulation (EU) 2022/1302 of 20 April 2022 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the application of position limits to commodity derivatives and procedures for applying for exemption from position limits.

⁴ Regulation (EU) 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC.

II. Contract classification

Commodity base product: Energy (NRGY)

Commodity sub product: Electricity (ELEC)

Commodity further sub product: Baseload (BSLD)

Name of trading venue: EUROPEAN ENERGY EXCHANGE

MIC: XEEE

Venue product code: DEB, O2F

III. Market description by the competent authority

5. Electricity is a grid-bound commodity, where delivery takes place through meshed transmission system grids. This means that market participants have no control over the actual destination of the generated power. Electricity can only be stored to a minimal extent, i.e. by means of battery storage. In fact, electricity is still widely considered as a non-storable commodity. Furthermore, prices of derivatives markets are closely related to spot markets. There are also some seasonal effects in the electricity market. Electricity demand tends to be higher in times of climatic extremes. However, such seasonal effects are rather small.
6. The physical German power market is the largest electricity market in Europe with a total generation of 431.7 TWh and 462.5 TWh of electricity consumption. Located in the middle of Europe, the physical German power market is highly interconnected with the pan-European grid and has more interconnectors than any other European country. In 2024, Germany imported 67 TWh and exported 35.1 TWh of electricity.
7. Sources of domestic energy generation in 2024 were:
 - renewables (59,4% of the total);
 - lignite (22,5%);
 - natural gas (14,9%);
 - other (3,2%).
8. Despite its relatively small share of overall generation, gas fired power plants form the backbone of German power generation in times in which little or no energy can be generated by wind and solar power due to weather conditions. Hence, there is often correlation between power prices in Germany and gas prices. As a consequence, the invasion of Ukraine in 2022, leading to a discontinuation of Russian gas supplies, heavily impacted the German power market. Since then, volatility has cooled down due to alternative gas supplies. However, the importance of weather-dependent renewables for domestic energy generation and price formation mechanisms for LNG still pose risks for

increased price volatility. Furthermore, according to a recent market power report⁵, the German Federal Cartel Office found that there is currently no dominant power generating company, particularly in light of high import capacities of the grid. However, the situation could change in the future as a result of the phase-outs of nuclear and coal generated power.

9. The German Power Base contracts comprise both futures and options. The underlying is used for delivery or acceptance of delivery of electricity with a constant output of 1 MW into the German/Luxembourg bidding zone.
10. The contract is financially settled. The final settlement price is based on the respective spot market index for the German/Luxembourg bidding zone. This is the EPEX SPOT SE for the market area Germany/Luxembourg. German Power Base contracts serve as reference benchmark contracts that are used as proxy hedging tool for other, smaller market areas with less liquid derivative contracts. German Power futures are also traded at ICE Endex in Amsterdam. However, for the time being, open interest there has not yet reached the threshold of a significant contract.
11. For a given trading day, EEX lists German Power Base Futures/Options contracts for the next 34 days, the next five weekends, the current week and the next 4 weeks, the current month and the next 24 months, the next 11 quarters and the next 10 calendar years.

IV. Proposed limit and rationale by the competent authority

Spot month position limit

12. Deliverable supply amounts to 206,396,640 MWh.
13. Deliverable supply has been calculated based on the statistics provided by ENTSO-E⁶ by adding Germany and Luxembourg's domestic generation capacity production and the cross-border import capacity for this delivery zone. For the year 2025 (1 January 2025 until 31 December 2025), the domestic generation capacity was 275,447 MW and the cross-border import capacity amounted to 11,215 MW, resulting in an overall deliverable supply of 286,662 MW. In contrast to gas markets, effective power deliveries have not been directly impacted by Russia's invasion of Ukraine. Thus, capacity figures still provide a solid basis for the calculation of deliverable supply.
14. Deliverable supply has been converted from MW to monthly MWh to align with the time frame of one standard calendar month for the spot month period (30 days). The ENTSO-E

⁵ [Monitoringbericht 2025 - Monitoringbericht gemäß § 63 Abs. 3 i. V. m. § 35 EnWG und § 48 Abs. 3 i. V. m. § 53 Abs. 3 GWB](#)

⁶ European Network of Transmission System Operators for Electricity

values therefore required to be multiplied by 24 (hours) and 30 (days). Accordingly, the overall deliverable supply in MWh amounts to: $286,662 \times 30 \times 24 = 206,396,640$ MWh.

Spot month position limit

15. The spot month limit is set at 10% of the deliverable supply and rounded to 21,000,000 MWh. This limit applies to EEX daily, weekends, weekly and current month German Power Base contracts.

Spot month position limit rationale

16. In accordance with Article 11(1) of RTS 21a, the baseline for the spot month limit amounts to 25% of the deliverable supply. A standard range between 5% and 35% of the deliverable supply can be used for setting the spot month limit.

17. BaFin has considered the following factors relevant for adjusting the baseline downwards:

- Article 18 of RTS 21a as the deliverable supply of physically delivered power in the German delivery zone is also used as deliverable supply for power commodity derivatives traded at ICE Endex in the Netherlands where the market is not significant though.
- Article 21(2) and more specifically Article 21(2)(c) of RTS 21a to reflect the structure, organisation and operation of the market. This refers in particular to the volatility of the German power market due to the fluctuations of power generation mainly caused by inconsistent deliveries due to weather-dependent renewable generation and power markets' correlation with gas markets, noting though that since 2022, power market prices have tended to stabilize. There are also indications that the development of LNG infrastructure in Germany may also bring more stability in the future,

18. All the other potential adjustment factors set out in RTS 21a have been considered by BaFin and were not regarded as material or relevant to require additional adjustments from the baseline.

19. Based on the considerations above, BaFin considered that it was appropriate to set the spot month limit at 10% of the deliverable supply, rounded to 21,000,000 MWh.

Open interest

20. The daily average open interest average for the period 1 November 2024 – 31 October 2025 for the EEX German Power Base contracts is 257,440,898 MWh.

21. The daily average open interest figures for the EEX German Power Base contracts are extracted from BaFin's daily position reporting system and include positions in

economically equivalent OTC contracts. The daily average open interest is calculated by adding the net open interest in each identified related contract that can be aggregated. The resulting figure is the daily net open interest of the relevant contract for the selected publication date. A daily overview of the contract open interest was made by repeating this process for each publication date from 1 November 2024 until 31 October 2025. Then an average was calculated resulting in the daily open interest figure based on a year, using the definitions as detailed in RTS 21a and the ESMA Questions and Answers on MiFID II and MiFIR commodity derivatives topics⁷.

Other months' position limit

22. The other months' limit is set at 20% of overall open interest and rounded to 52,000,000 MWh. This limit applies to EEX yearly, quarterly and monthly (other than current month) Power Base contracts.

Other months' position limit rationale

23. In accordance with Article 13(1) of RTS 21a, the baseline figure for the other months' limit amounts to 25% of the open interest. A standard range between 5% and 35% of the open interest can be used for setting the other months' limit.

24. BaFin has considered the following factors relevant for adjusting the baseline downwards:

- Article 21(2) and more specifically Article 21(2)(c) of RTS 21a to reflect the structure, organisation and the operation of the market. This refers in particular to the volatility of the power market due to the fluctuations of power generation mainly caused by Germany's increasing use of renewable energy sources and volatile gas markets.

25. All the other potential adjustment factors set out in RTS 21a have been considered by BaFin and were not regarded as material or relevant to require additional adjustments from the baseline.

26. Based on the considerations above, BaFin considered that it was appropriate to set the other months' limit at 20% of overall open interest, rounded to 52,000,000 MWh.

V. ESMA's assessment

27. This Opinion concerns positions held in EEX German Power Base contracts.

28. ESMA has performed the assessment based on the information provided by BaFin.

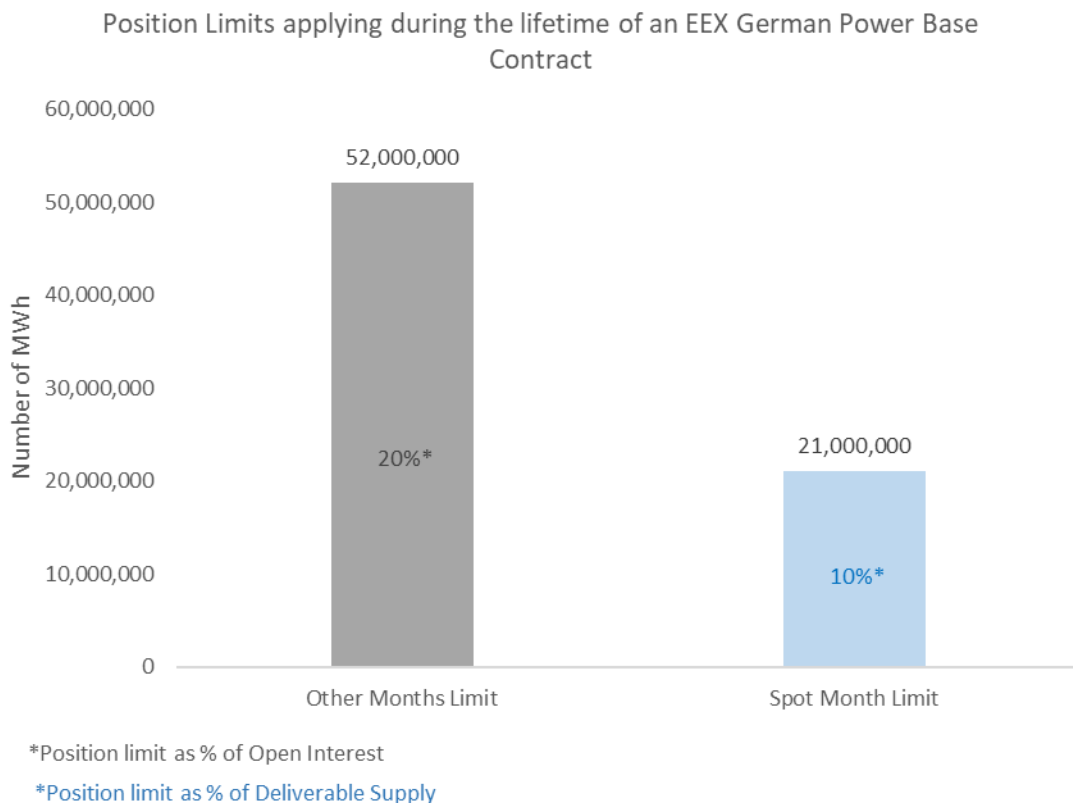
⁷ In particular, please see the following ESMA Q&A: <https://www.esma.europa.eu/publications-data/questions-answers/1276>

29. For the purposes of this Opinion, ESMA has assessed the compatibility of the new position limits BaFin intends to set according to Article 57(4) of MiFID II with the objectives of Article 57(1) of MiFID II and with the methodology for calculation of position limits established in RTS 21a, in accordance with Article 57(3) of MiFID II.

30. The overall open interest in the EEX German Power Base contract amounts to 257,440,898 MWh which translates into 357,557 lots. In line with Article 57(1) of MiFID II, since the level of open interest exceeds 300,000 lots over a one-year period, the EEX German Power Base contract qualifies as critical or significant under Article 57(1) of MiFID II and are subject to position limits. The spot month and the other months' limits can be set between 5% and 35% of the reference amount in accordance with Article 16 of RTS 21a.

Compatibility with the methodology for calculation of position limits established in RTS 21a in accordance with Article 57(3) of MiFID II

31. BaFin has set one position limit for the spot month and one position limit for the other months:



Spot month position limit

32. The estimation of deliverable supply for power is calculated by aggregating Germany and Luxembourg's domestic generation capacity production and the cross-border import capacity for the delivery zone. The figures used are provided by ENTSO-E. ESMA agrees with using data from this data source to calculate deliverable supply as this provides publicly available and reliable figures.
33. ESMA considers that the deliverable supply calculation's methodology is consistent with Article 12(2) of RTS 21a that sets out that "Competent authorities shall determine the deliverable supply (...) by reference to the average monthly amount of the underlying commodity available for delivery based on the most recent available data covering: (a) a one year period immediately preceding the determination for a critical or significant commodity derivative; (...)".
34. ESMA agrees that a downward adjustment to the baseline is justified under Article 18 of RTS 21a considering that deliverable supply is also used for other commodity derivative contracts such as power commodity derivatives traded at ICE Endex in the Netherlands.
35. ESMA also considers that it is a reasonable approach to have further adjusted the spot month limit downwards to take into account the structure, organisation and the operation of the market, and in particular the volatility of the power market, in accordance with Article 21(2)(c) of RTS 21a.

Other months' position limits

36. The open interest has been calculated by BaFin extracting figures from its daily position reporting system. The daily average open interest has been calculated on a net basis adding the open interest in each identified related contract that can be aggregated. The daily average open interest has been calculated over a one-year period from 1 November 2024 until 31 October 2025. ESMA considers that such calculation of open interest by the competent authority provides the most accurate and reliable figure and promotes convergence in the setting of position limits. ESMA also considers such approach consistent with Article 14 of RTS 21a.
37. ESMA considers the downward adjustment made to the baseline as justified to reflect the structure, organisation and the operation of the market, and in particular the volatility of the power market, in accordance with Article 21(2)(c) of RTS 21a.

Compatibility with the objectives of Article 57(1) of MiFID II

38. ESMA has found no evidence indicating that the proposed position limits are not consistent with the objectives of preventing market abuse and supporting orderly pricing and settlement conditions established in Article 57(1) MiFID II.

39. Overall, the position limits set for the spot month and the other months appear to achieve a reasonable balance between the need to prevent market abuse and to ensure an orderly market and orderly settlement, while ensuring that the development of commercial activities in the underlying market and the liquidity of the EEX German Power Base contracts are not hampered.
40. Nevertheless, ESMA invites BaFin to closely monitor developments in the EEX German Power Base contracts and to assess on an-ongoing basis the relevance of the data underpinning the position limits. In case of any relevant underlying market changes or other developments in market fundamentals that may warrant a revision of the position limits, BaFin should notify ESMA as soon as possible.

VI. Conclusion

41. Based on all the considerations and analysis presented above, it is ESMA's opinion that the spot month position limit complies with the methodology established in RTS 21a and is consistent with the objectives of Article 57 of MiFID II. The other months' position limit also complies with the methodology established in RTS 21a and is consistent with the objectives of Article 57 of MiFID II.

Done at Paris, 28 January 2026

Verena Ross

Chair

For the Board of Supervisors