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## **German Act on Power Market 2.0: European Commission approves German plan to phase-out certain lignite-fired power plants according to EU state aid rules**

On May 27, 2016 the European Commission (EU COM) has decided upon the state aid implications of the German legislator's plan to phase-out certain lignite-fired power plants by compensating the plant operators for putting the plants into a security reserve for a period of four years. The compensation worth € 1.6 billion in total does not violate EU state aid rules.

### **Background – Draft Power Market Act**

In November 2015 the German government decided to phase-out the most polluting lignite-fired power plants (eight in total) as a means to meet its CO<sub>2</sub>-emissions reduction plans until 2020. In its [draft](#) of the Power Market Act ("Strommarktgesetz") amending the Energy Industry Act lignite-fired power plants are to be decommissioned (as of 2020) after being operated off-market as part of a security reserve (§ 13g of the draft). The respective compensation for the operational costs and loss of profit was subject to the EU COM approval.

### **Lignite-fired power generation in Germany**

In Germany lignite-fired power generation has a share of 24 % in 2015 and still constitutes the main generation technology. With the planned decommissioning 13 % of lignite-fired power capacity will be abandoned. This should save about 11-12.5 million tons per year of CO<sub>2</sub>-emissions.

As a compensation for the operators for not being able to sell electricity on the market, they are compensated with approx. € 1.6 billion in total. The first power plant will be put into security reserve in October 2016.

### **Decision of the European Commission**

The EU COM monitors the Member States' compliance to state aid provisions according to Art. 107 and 108 TFEU. The German government sought approval according to state aid rules prior to enacting the Power Market Act. The EU COM assessed whether the compensation for loss of profits distorts competition. According to the EU COM the compensation does not violate European state aid law, as in light of the significant contribution to reduce CO<sub>2</sub>-emissions in Germany, the potential distortions caused by the aid are largely offset by the environmental benefits.

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