



Wednesday 2nd of November 2022

Verena Ross
Chair of the European Securities and Markets Authority
201-203 Rue de Bercy
75012 Paris

John Berrigan
Director-General for Financial Stability, Financial Services and Capital Markets Union
European Commission
1049 Bruxelles / Brussels

Via email

Re: Exchange Risk Controls and Energy Markets

Dear Chair Ross,

Dear Director-General Berrigan,

FIA is appreciative of the work carried out by ESMA and the European Commission (“Commission”) in addressing the current energy crisis by providing an EU-wide response including various emergency proposals. FIA would like to express caution regarding potential action on exchange circuit breakers and other exchange controls. We note that ESMA investigated the use of circuit breakers during the crisis as well as price limits and reported some of its findings and recommendations to the Commission on 22 September¹. We understand ESMA is undertaking further clarifications and amendments to the existing framework on the implementation and utilization of circuit breakers within the EU.

We also note the recent proposal for a Council Regulation published on 18 October 2022,² specifically section 4 paragraph (a) ‘*Intra-day price volatility management mechanism*’ for trading venues to establish a new temporary intra-day volatility management mechanism aimed at limiting large price movements in electricity and gas derivatives contracts within the same trading day, focusing on front month energy derivatives and supplementing any existing circuit breakers on these trading venues. FIA is currently considering the “intra-day price volatility management mechanism” proposal and will likely come back to the Commission and ESMA with our view on this and similar tools such as price limits.

This letter specifically outlines FIA’s views regarding circuit breakers at a high level. While FIA is generally supportive of exchange circuit breakers when used in the context of managing disorderly markets, they should not be used as tools to control or cap prices and if improperly implemented and calibrated these

¹ [Facing the energy crisis in the EU: work streams related to the financial system \(europa.eu\)](#) and [esma24-436-1414 - response to ec commodity markets.pdf \(europa.eu\)](#)

² COM(2022) 549 final, 2022/0339 (NLE), Proposal for a COUNCIL REGULATION, Enhancing solidarity through better coordination of gas purchases, exchanges of gas across borders and reliable price benchmarks



tools can be damaging to the market and the wider financial system. As we noted in our September 2022 whitepaper, *A Futures Industry Perspective: How EU Policymakers Should Respond to the Energy Crisis*,³ ‘we also agree with the Commission’s interest in examining the use of these controls across the European Union, though we caution that this effort should take into account the nuances of each market.’

Therefore, we ask the Commission to consider the following recommendations:

- **Exchange, market and product specifics:** Each market and product are unique. Exchanges should have the authority and responsibility for calibrating circuit breaker parameters (triggers, duration of market halt, etc.) based on the specific market structure, fundamentals, and liquidity of the products they list. For instance, even within the European gas market, Dutch TTF and German Gas futures have different maturity and liquidity profiles (amongst others) and should have circuit breakers calibrated accordingly. Exchanges, under the supervision of their NCAs, are best placed to determine how the various exchange risk controls, including circuit breakers, function on their markets as they have the necessary data, as well as the relevant skills and experience.
- **Market conditions:** Markets are constantly evolving and exchanges must have the flexibility to adapt to evolving market conditions. Parametrisation is not static but dynamic and therefore the appropriateness of parameters should be reviewed regularly as market conditions warrant.
- **Interconnected markets:** Exchanges must consider how their market is connected to other markets — such as physical vs financial commodity markets (Listed and OTC). For example, a temporary trading halt in their market may not lead to a corresponding pause in related markets, potentially increasing their volatility, and leading to a divergence between listed price and OTC price which can impact market confidence.
- **Carefully used:** Volatility is a necessary element of the price discovery process. Any circuit breaker calibration should be carefully considered such that it avoids falsely pausing an orderly market, which would be highly detrimental to market confidence and market participants. It must be noted that energy markets generally display a higher degree of volatility than other traditional markets, and therefore such specificities must be taken into account. We note in article 15, paragraph 6, of the recent proposal for a Council Regulation published on 18 October 2022, the intra-day volatility mechanism should not replace existing circuit breakers. However, adding multiple circuit breakers with different parameters might not be prudent for the market and would be difficult to implement. Therefore, we recommend that the text recognises an alternative for trading venues to integrate such mechanism in their existing circuit breakers and consider the following amendment to Article 15(6): *“Trading venues shall implement the intra-day volatility management mechanism either by integrating the intra-day volatility management mechanism into their existing circuit breakers already established in accordance with Directive 2014/65/EU or as an additional mechanism.”*

³ [A Futures Industry Perspective - How EU Policymakers Should Respond to the Energy Crisis_0.pdf \(fia.org\)](#)



- **Short pause:** Any length of pause could impact the price discovery process and reduce the ability of participants to actively manage risk. Therefore, any implementation and calibration should be established with the objective to keep the market open as much as possible.
- **Used with other controls:** Circuit breakers should be used in conjunction with other pre-trade controls such as price collars and order size limits. This is very important to avoid pausing a market for a single erroneous entry such as a fat finger error.
- **Additional monitoring:** Exchanges and CCPs must be proactive in monitoring markets (including related OTC markets), positions and their member liquidity to pre-empt issues and prevent repeated trading halts that may impair market confidence.
- **Effective and efficient communication:** Any volatility control framework and parameters should ex-ante be disclosed to participants in a transparent and accessible manner. Participants must fully understand the risks and constraints they could face in the event of a market pause. In addition, when a market pause or suspension is invoked, the Exchange should immediately notify market participants of the event and next steps (by electronic broadcast and others).

FIA and its members are grateful to the Commission for taking the time to consider our views on this issue. We hope to continue working with the Commission and other EU authorities on this matter. If you would like to discuss this letter further, please contact Jacqueline Mesa, Chief Operating Officer and Senior Vice President of Global Policy, jmesa@fia.org.

Yours sincerely,

A handwritten signature in black ink that reads 'Walt L. Lukken'.

Walt Lukken
President and CEO