

Are Prediction Market Shares Binary Options?

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Legal Classification in Germany

The legal status of prediction market shares is **not yet definitively clarified** in Germany – classification depends largely on the specific circumstances of each individual case.

Two Regulatory Paths

The regulatory framework likely falls under either gambling laws or financial market rules – determined by the specific content and structure of the shares.

Supervisory Authorities

- **GGL** – Gambling regulation
- **BaFin** – Financial market regulation

Which authority applies depends entirely on how the shares are structured and what they reference.

Shares as Gambling and Sports Betting

Shares relating to outcomes like soccer matches may constitute **sports bets**, falling under a distinct regulatory regime.

Governing Law

This specific category falls under the jurisdiction of the **State Treaty on Gambling**, which sets the legal framework for all sports-related prediction shares.

Supervisory Body

The **Joint Gambling Authority (GGL)** serves as the competent supervisory body overseeing platforms where participants bet on events like club victories or defeats.

Whitelist Requirement

Organizers must be listed on the official GGL "**whitelist**" to operate legally – a mandatory compliance step before any platform can accept participants.

Shares as Financial Instruments

When structured as **financial futures contracts or derivative transactions**, prediction market shares enter an entirely different regulatory universe under German and EU law.

Fixed-Term Transactions

These include fixed-term transactions or options that are **settled at a later date**, qualifying them as derivative financial instruments.

Financial Underlyings

Underlying assets include **securities, money market instruments, or interest rates** – the classic building blocks of regulated financial derivatives.

Commodity Underlyings

Commodities, **freight rates, and climate data** can also serve as underlyings, broadening the scope of what qualifies as a financial instrument.

Licensing and Binary Option Definition

Operating a platform for derivative shares requires a **specific license from BaFin** – and binary options face particularly strict treatment for retail investors.

What Are Binary Options?

- Cash-settled derivative financial instruments
- Payouts limited to a predetermined amount or zero
- Outcome depends on whether specific conditions are met upon expiration

BaFin Restrictions

BaFin **restricts the marketing, distribution and sale** of binary options to retail investors – a protective measure reflecting the high-risk nature of these instruments.

Exceptions and Specific Regulations

Binary option restrictions may apply **throughout the EU** due to ESMA statements – but targeted exceptions exist under strict conditions.

EU-Wide Relevance

Many EU member states have decided to partially or fully apply the ESMA statements regarding restrictions on marketing, distribution and sale of binary options.

90-Day Minimum Term

Specific exceptions apply to binary options with a **minimum term of 90 days** – a key threshold for regulatory relief.

Approved Prospectus

A mandatory requirement for these exceptions is the **publication of an approved prospectus** before any offering is made.

No Market Risk Exposure

Providers must ensure they are **not exposed to market risk** during the option term – a structural safeguard for participants.

Commission-Only Profits

Provider profits are strictly limited to **disclosed commissions and transaction fees** – no hidden gains permitted.

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