Criminal sanctions for market abuse (market abuse directive)

2011/0297(COD) - 25/07/2012 - Supplementary legislative basic document

The Commission presents an amended proposal for a directive on criminal sanctions for insider dealing and market manipulation.

On 20 October 2011, the Commission adopted a proposal for a Regulation of the European Parliament and of the Council on insider dealing and market manipulation (market abuse) *(please see the summary of the same date)*.

Since March 2011, investigations have been taking place in relation to possible manipulation of the **EURIBOR and LIBOR benchmarks for interbank lending rates** by a number of banks. It is suspected that these banks had provided estimates of the interest rate at which they would accept offers of funding which were different from the rate they would have accepted in practice.

As a result, the level of EURIBOR and LIBOR rates –which are used as a benchmark for borrowing and as a reference for the pricing of many financial instruments, such as interest rate swaps – may have been altered and the integrity of LIBOR and EURIBOR called into question.

The Commission has assessed whether the possible manipulation of benchmarks including LIBOR and EURIBOR would be captured by its proposals for a directive on criminal sanctions for insider dealing and market manipulation and the related proposal for a regulation on insider dealing and market manipulation presented in October 2011. The **European Parliament** has also emphasised the importance of this matter.

Given that **benchmarks are not currently covered by either proposal**, the Commission has concluded that direct manipulation of benchmarks does not fall within the scope of either proposal.

Since any actual or attempted manipulation of important benchmarks can have a serious impact on market confidence and could result in significant losses for investors and distortions of the real economy, it is essential to clarify that competent authorities should be able to impose administrative sanctions as regards the offence of market manipulation in these cases, without the need to prove or demonstrate incidental issues such as price effects.

Therefore, **in order to cover the manipulation of benchmarks and in order to ensure that intentional manipulation of benchmarks is a criminal offence, the Commission proposes to amend its proposal for a Directive.**