

Market abuse

2011/0295(COD) - 10/09/2013 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 659 votes to 20 with 28 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on insider dealing and market manipulation (market abuse).

Parliament adopted its position in first reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise between Parliament and Council. They amend the proposal as follows:

Purpose: the Regulation establishes a common regulatory framework on insider dealing, misuse of inside information and market manipulation as well as measures to prevent market abuse to ensure the integrity of financial markets in the Union and to enhance investor protection and confidence in those markets.

Extended scope: the extended scope of the Regulation includes any financial instrument traded on a regulated market, multilateral trading facilities (MTF) or an organised trading facilities (OTF), or any other conduct or action which can have an effect on such a financial instrument

The Regulation will apply to bids, relating to the auctioning of emission allowances or other auctioned products based thereon pursuant to Regulation (EU) No 1031/2010.

Increased transparency: the Regulation stipulates that operators of a regulated market, a MTF or an OTF should notify without delay to their competent authority details of their financial instruments which they have admitted to trading, for which there has been a request for admission to trading or that have been traded on their trading venue. A second notification should also be made when the instrument ceases to be admitted to trading.

Based on these notifications, which should be notified to ESMA by the competent authorities, ESMA should publish a list of all of these financial instruments.

- **Market manipulation:** the new Regulation states that this covers certain activities, including: disseminating information through the media, including the internet, or by any other means, which (i) gives false or misleading signals as to the supply of, demand for, or price of, a financial instrument or a related spot commodity contract or (ii) secures, or is likely to secure, the price of one or several financial instruments or a related spot commodity contracts at an abnormal or artificial level, including the dissemination of rumours where the person who made the dissemination knew, or ought to have known, that the information was false or misleading;
- transmitting false or misleading information or providing false or misleading inputs where the person who made the transmission or provided the input knew or ought to have known that it was false or misleading, or any other behaviour which manipulates the calculation of a benchmark.

Market manipulation covers the placing of orders to a trading venue, including any cancellation or modification thereof, by any available means of trading, including electronic means, such as algorithmic and high frequency trading strategies by:

- disrupting or delaying the functioning of the trading system of the trading venue or which is likely to do so;

- making it more difficult for other persons to identify genuine orders on the trading system of the trading venue or which is likely to do so, including by entering orders which result in the overloading or destabilisation of the order book; or
- creating or being likely to create a false or misleading signal about the supply of or demand for, or price of a financial instrument, in particular by entering orders to initiate or exacerbate a trend.

Stricter penalties: the text provides that market abuse carries penalties amounting to EUR 15 000 000 or 15 % of total annual turnover.

Individuals may be subject to fines up to EUR 5000 or, in certain cases, a public warning or a permanent ban on exercising management functions in investment firms.