

Criminal sanctions for market abuse (market abuse directive)

2011/0297(COD) - 16/04/2014 - Final act

PURPOSE: to ensure the availability of criminal sanctions for at least serious market abuse across the Union.

LEGISLATIVE ACT: Directive 2014/57/EU of the European Parliament and of the Council on criminal sanctions for market abuse (market abuse directive).

CONTENT: This Directive establishes **minimum rules for criminal sanctions** for insider dealing, for unlawful disclosure of inside information and for market manipulation to ensure the integrity of financial markets in the Union and to enhance investor protection and confidence in those markets. The Directive should be applied in the context of the legal framework established by the [Regulation on the operations initiated and market abuse](#) (market abuse regulation - MAR) and its implementing measures.

Specifically, the new Directive on market abuse should oblige Member States to provide in their national law for **criminal penalties** in respect of insider dealing, market manipulation and unlawful disclosure of inside information when these offences are committed intentionally.

Criminal penalties for natural persons: in order for the sanctions for the offences to be effective and dissuasive, the Directive sets a **minimum level for the maximum term of imprisonment**.

Would be punishable by a maximum term of imprisonment of **at least four years**:

- offences linked to **insider dealing** and recommending that another person engage in insider dealing, or inducing another person;
- offences linked to **market manipulations** (such as for example, offences linked to transmitting false or misleading information or providing false or misleading inputs or any other behaviour which manipulates the calculation of a benchmark, such as LIBOR).

Offences linked to unlawful disclosure of inside information would be punishable by a maximum term of imprisonment of **at least two years**.

Liability of legal persons: the Directive requires Member States to take the necessary measures to ensure that legal persons can be held liable for the offences referred to in the Directive committed for their benefit by any person, acting either individually or as part of an organ of the legal person, and having a leading position within the legal person.

A legal person held liable is subject to **effective, proportionate and dissuasive sanctions, which shall include criminal or non-criminal fines** and may include other sanctions, such as

- exclusion from entitlement to public benefits or aid;
- temporary or permanent disqualification from the practice of commercial activities;
- placing under judicial supervision;

- judicial winding-up;
- temporary or permanent closure of establishments which have been used for committing the offence.

Training: Member States shall request those responsible for the training of judges, prosecutors, police, judicial and those competent authorities' staff involved in criminal proceedings and investigations to provide appropriate training with respect to the objectives of this Directive.

Report: by 4 July 2018, the Commission shall report on the functioning of this Directive and, if necessary, on the need to amend it, including with regard to the interpretation of serious cases and the level of sanctions provided by Member States.

ENTRY INTO FORCE: 02.07.2014.

TRANSPOSITION : no later than 03.07.2016.