

Wholesale energy market: Union's protection against market manipulation

2023/0076(COD) - 14/03/2023 - Legislative proposal

PURPOSE: to stimulate open and fair competition in European wholesale energy markets by enhancing market transparency and integrity.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: very high prices and volatility in electricity markets have been observed since September 2021. This is mainly a consequence of the high price of gas, which is used as an input to generate electricity. The Russian invasion of Ukraine has also caused uncertainty on the supply of other commodities, such as hard coal and crude oil, used by power-generating installations. This has resulted in substantial additional increases in the volatility of price levels of electricity.

The EU has reacted swiftly to this situation by introducing a wide range of measures to mitigate the impact of high and volatile wholesale energy prices on households and businesses. To address the shortcomings that emerged during the crisis and to take advantage of the growing importance of renewable energy, the Commission announced a reform of the organisation of the electricity market. The proposed reform includes major revisions to several pieces of EU legislation, including the Electricity Regulation, the [Electricity Directive](#) and the present REMIT Regulation.

The integrity and transparency of the internal electricity and gas markets are essential to ensure open and fair competition in the internal electricity and gas markets and a level playing field for market participants. Regulation (EU) No 1227/2011 of the European Parliament and of the Council (REMIT) establishes a comprehensive framework to achieve this objective.

In order to enhance public trust in the proper functioning of the energy markets and to effectively protect the Union against attempts at market manipulation, Regulation (EU) No 1227/2011 should be amended and the shortcomings identified in the current framework should be addressed so as to further increase transparency and insufficient monitoring capacity and to ensure more effective investigation and enforcement of potential cross-border market abuse.

The proposed reform will strengthen the ability of the Agency for the Cooperation of Energy Regulators (ACER) and national regulators to monitor the integrity and transparency of the wholesale energy market. This will ensure that markets behave competitively and that prices are set transparently.

CONTENT: the amendments concerning REMIT Regulation:

- **adapt the scope of REMIT to current and evolving market circumstances** by *inter alia* extending the scope of data reporting to new electricity balancing markets and coupled markets as well algorithmic trading;
- adjust the **definition of market manipulation** to include any other behaviour relating to wholesale energy products which: (i) gives, or is likely to give, false or misleading signals as to the supply of, demand for, or price of wholesale energy products; (ii) secures, or is likely to secure, by a person, or

persons acting in collaboration, the price of one or several wholesale energy products at an artificial level, or (iii) employs a fictitious device or any other form of deception or contrivance which gives, or is likely to give, false or misleading signals regarding the supply of, demand for, or price of wholesale energy products;

- ensures stronger, more established and regular cooperation between energy and financial regulators, including ACER and ESMA regarding derivative wholesale energy products;

- improve process for the **collection of inside information** and market transparency by enhancing the oversight of ACER and adjustment of inside information definition. Amendments to REMIT Regulation;

- enhance **supervision of reporting parties** such as registered reporting mechanisms and persons professionally arranging transactions;

- improve **data sharing** possibilities between ACER, relevant national authorities and the Commission. REMIT amendment;

- **strengthen the role of ACER** in investigations of significant cross-border cases to fight against the REMIT breaches;

- set out the framework for harmonisation of **fines** set by regulatory authorities at national level.