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*Committee on Economic and Monetary Affairs*

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**2010/0363(COD)**

18.4.2011

# **AMENDMENTS**

## **23 - 65**

**Draft opinion**

**Robert Goebbels**

(PE460.918v01-00)

Proposal for a regulation of the European Parliament and of the Council on energy market integrity and transparency

Proposal for a regulation

(COM(2010)0726 – C7-0407/2010 – 2010/0363(COD))

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**Amendment 23**  
**Krišjānis Kariņš**

**Proposal for a regulation**  
**Recital 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***(1a) The goal of increased integrity and transparency of energy market should be to foster open and fair competition in wholesale energy markets to the benefit of end consumer of energy.***

Or. en

**Amendment 24**  
**Nikolaos Chountis**

**Proposal for a regulation**  
**Recital 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***(1a) The energy sector and energy supply are of the greatest strategic importance for the Member States; policies adopted should therefore be compatible with efforts to achieve growth and with social and environmental policy.***

Or. el

**Amendment 25**  
**Nikolaos Chountis**

**Proposal for a regulation**  
**Recital 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***(1b) Electricity is a public utility and cannot be left in the grip of market forces and neo-liberal politicians. The 'self-***

*regulatory capacities' of the market and  
obedience to competition rules  
accompanying the provision of public  
services have manifestly failed.*

Or. el

**Amendment 26**  
**Nikolaos Chountis**

**Proposal for a regulation**  
**Recital 3 a (new)**

*Text proposed by the Commission*

*Amendment*

*(3a) Because of the oligopolistic structure  
of the deregulated energy sector, prices  
are set on the financial markets and  
controlled by five or six corporate giants.  
The energy sector operates along typically  
arbitrary and speculative lines at the  
expense of the public and social interest.*

Or. el

**Amendment 27**  
**Philippe Lamberts**

**Proposal for a regulation**  
**Recital 4 a (new)**

*Text proposed by the Commission*

*Amendment*

*(4a) In order to increase transparency in  
the energy wholesale markets, the Agency  
for the Cooperation of Energy Regulators  
established by Regulation (EC) No  
713/2009 of the European Parliament and  
of the Council<sup>1</sup> (The Agency) should  
introduce a registry of market participants  
as well as investigate the feasibility and  
the timing of migrating over-the-counter  
(OTC) derivatives to trading floors  
entailing clearance;*

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<sup>1</sup> OJ L 211, 14.8.2009, p. 1

Or. en

**Amendment 28**  
**Philippe Lamberts**

**Proposal for a regulation**  
**Recital 4 b (new)**

*Text proposed by the Commission*

*Amendment*

***(4b) In order to create a level playing field between different market places and contract forms, minimum requirements for trading floors should be envisaged;***

Or. en

**Amendment 29**  
**Philippe Lamberts**

**Proposal for a regulation**  
**Recital 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***(5a) Recognising the interactions between electricity and gas markets with the markets for oil, coal and CO<sub>2</sub>, the Agency should monitor them in order to ensure a comprehensive understanding of market developments.***

Or. en

**Amendment 30**  
**Nikolaos Chountis**

**Proposal for a regulation**  
**Recital 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***(5a) Regulation, inspection, supervision and large fines with a view to curbing speculation and ensuring transparency within the framework of the same economic system as the existing deregulated energy sector are considered to be inadequate instruments of limited effectiveness. The 'supervised deregulation' model for the energy sector cannot replace a social state and promote an integrated growth, social and environmental policy which will be in the social interest of EU citizens.***

Or. el

**Amendment 31**  
**Krišjānis Kariņš**

**Proposal for a regulation**  
**Recital 6**

*Text proposed by the Commission*

(6) Behaviour which undermines the integrity of the energy market is currently not clearly prohibited on some of the most important energy markets.

*Amendment*

(6) Behaviour which undermines the integrity of the energy market ***and can lead to higher prices to end consumer of energy*** is currently not clearly prohibited on some of the most important energy markets.

Or. en

**Amendment 32**  
**Philippe Lamberts**

**Proposal for a regulation**  
**Recital 7**

*Text proposed by the Commission*

(7) Derivative trading and commodity trading are used together on wholesale energy markets. It is therefore important that the definitions of market abuse, which consists of insider trading and market manipulation, are compatible between derivatives and commodity markets.

*Amendment*

(7) Derivative trading and commodity trading are used together on wholesale energy markets. It is therefore important that the definitions of market abuse, which consists of insider trading and market manipulation, are compatible between derivatives and commodity markets. ***The rules should apply to all transactions concluded, whether directly or through intermediaries, on regulated markets, on multilateral trading facilities and over the counter (OTC) transactions, irrespective of whether they are standardised or bilateral ones.***

Or. en

**Amendment 33**  
**Nikolaos Chountis**

**Proposal for a regulation**  
**Recital 10 a (new)**

*Text proposed by the Commission*

*Amendment*

***(10a) Progressive market deregulation following the first directive (96/92/EC) has not, as the Commission asserted, resulted in stability, price predictability and lower costs for consumers. On the contrary, prices have risen steeply at the expense European consumers, leading to 'energy poverty'.***

Or. el

**Amendment 34**  
**Anni Podimata**

**Proposal for a regulation**  
**Recital 11**

*Text proposed by the Commission*

(11) Specification of the definitions of inside information and market manipulation is necessary to account for the specificities of wholesale energy markets, which are dynamic and subject to change. The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty in respect to such detailed rules.

*Amendment*

(11) Specification of the definitions of inside information and market manipulation is necessary to account for the specificities of wholesale energy markets, which are dynamic and subject to change. ***Coherence with other relevant legal acts of the Union in the field of financial services, which is also dynamic and subject to change, should be ensured to avoid regulatory gaps.*** The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty in respect to such detailed rules.

Or. en

**Amendment 35**  
**Nikolaos Chountis**

**Proposal for a regulation**  
**Recital 13 a (new)**

*Text proposed by the Commission*

*Amendment*

***(13a) Bestowing increased responsibilities on the Agency under the market 'monitoring mechanism' conceals the danger of turning it into a 'regulatory trap' and an instrument enabling major market stakeholders to exert their influence and assert their own interests. Its mode of operation does not guarantee compliance with the principles of transparency and democratic control, thereby making it impossible to defend the social interest of EU citizens.***

Or. el

**Amendment 36**  
**Krišjānis Kariņš**



**Proposal for a regulation**  
**Recital 18**

*Text proposed by the Commission*

(18) Where information is not commercially sensitive, the Agency should be able to make that information available to market participants and the wider public. Such transparency can help build confidence in the market and help the development of knowledge about the functioning of wholesale energy markets.

*Amendment*

(18) Where information is not commercially sensitive, the Agency should be able to make that information available to market participants and the wider public. Such transparency can help build confidence in the market and help the development of knowledge about the functioning of wholesale energy markets.  
***In order to ensure greater transparency and public access to information on wholesale energy prices the Agency should prepare monthly country by country report on price developments in energy wholesale markets.***

Or. en

**Amendment 37**  
**Philippe Lamberts**

**Proposal for a regulation**  
**Recital 19**

*Text proposed by the Commission*

(19) National regulatory authorities should ***be responsible for ensuring that*** this Regulation ***is enforced*** in the Member States. To this end they should have the necessary investigatory powers to allow them to carry out this task efficiently.

*Amendment*

(19) National regulatory authorities should ***have a duty to enforce*** this Regulation in the Member States. To this end they should have the necessary investigatory powers to allow them to carry out this task efficiently. ***The Agency should also have investigatory powers in strong coordination with the national regulatory authorities concerned and have the power to ensure the consistency of the approach to investigation and subsequent action across the Union.***

Or. en

**Amendment 38**  
**Krišjānis Kariņš**

**Proposal for a regulation**  
**Recital 23**

*Text proposed by the Commission*

(23) It is important that the penalties for breaches of this Regulation are proportionate and dissuasive, and reflect the gravity of the infringements and the potential gains from trading on the basis of inside information and market manipulation. Recognising the interactions between trading in electricity and gas derivative products and trading in actual electricity and gas, the penalties for breaches of this Regulation should be in line with the penalties adopted by the Member States in implementing Directive 2003/6/EC.

*Amendment*

(23) It is important that the penalties for breaches of this Regulation are proportionate and dissuasive, and reflect the gravity of the infringements and the potential gains from trading on the basis of inside information and market manipulation. ***To avoid regulatory arbitrage, whereby transactions take place in place where regulation is more flexible or tolerant with regard to penalties the Commission should regularly review the necessity to introduce system of penalties at the European Union level.*** Recognising the interactions between trading in electricity and gas derivative products and trading in actual electricity and gas, the penalties for breaches of this Regulation should be in line with the penalties adopted by the Member States in implementing Directive 2003/6/EC.

Or. en

**Amendment 39**  
**Philippe Lamberts**

**Proposal for a regulation**  
**Recital 23**

*Text proposed by the Commission*

(23) It is important that the penalties for breaches of this Regulation are proportionate and dissuasive, and reflect the gravity of the infringements and the potential gains from trading on the basis of inside information and market manipulation. Recognising the interactions

*Amendment*

(23) It is important that the penalties for breaches of this Regulation are proportionate and dissuasive, and reflect the gravity of the infringements and the potential gains from trading on the basis of inside information and market manipulation. Recognising the interactions

between trading in electricity and gas derivative products and trading in actual electricity and gas, the penalties for breaches of this Regulation should be in line with the penalties adopted by the Member States in implementing Directive 2003/6/EC.

between trading in electricity and gas derivative products and trading in actual electricity and gas, the penalties for breaches of this Regulation should be in line with the penalties adopted by the Member States in implementing Directive 2003/6/EC. ***In order to achieve the level of dissuasion required, minimum penalties should therefore be set at two times the total of the direct and indirect potential financial gains resulting from the actions this directive seeks to prevent.***

Or. en

**Amendment 40**  
**Philippe Lamberts**

**Proposal for a regulation**  
**Article 1 – paragraph 1**

*Text proposed by the Commission*

This Regulation establishes rules prohibiting abusive practices on wholesale energy markets coherent with those applying in financial markets. It provides for the monitoring of wholesale energy markets by the Agency.

*Amendment*

This Regulation establishes rules prohibiting abusive practices on wholesale energy markets coherent with those applying in financial markets. It provides for the monitoring of wholesale energy markets by the Agency ***and sets minimum requirements for the operation of trading floors and all OTC trading.***

Or. en

**Amendment 41**  
**Markus Ferber**

**Proposal for a regulation**  
**Article 2 – point 1 – subparagraph 1**

*Text proposed by the Commission*

‘inside information’ means ***precise*** information which has not been made

*Amendment*

‘inside information’ means information ***of a precise nature*** which has not been made

public, relating directly or indirectly to one or more wholesale energy products and which, *if it were made public, could significantly affect the prices of such wholesale energy products;*

public, relating directly or indirectly to one or more wholesale energy products and which *a reasonable professional market participant would expect to receive in accordance with statutory requirements and/or accepted market practices.*

Or. en

**Amendment 42**  
**Markus Ferber**

**Proposal for a regulation**  
**Article 2 – point 1 – subparagraph 2**

*Text proposed by the Commission*

For the purposes of applying the first subparagraph, information a reasonable market participant would be likely to use as part of the basis of his decision to enter into *a* transaction relating to a wholesale energy product is information which, if it were made public, would be likely to have a significant effect on the prices of such wholesale energy products. *Such* information *includes* information related to the capacity of facilities for production, storage, consumption or transmission of electricity or natural gas, as well as information which is required to be disclosed in accordance with legal or regulatory provisions *at Union or national level*, market rules, *and* contracts or *customs* on the relevant wholesale *energy* market.

*Amendment*

For the purposes of applying the first subparagraph, *inside information means information which:*

*(a) is required to be made public in accordance with the provisions of Regulation (EC) No. 714/2009, Regulation (EC) No. 715/2009 or this Regulation, including guidelines, network codes or delegated acts adopted pursuant to those Regulations, or in accordance with other legislative or regulatory provisions at European Union level, in particular Directive 2009/72/EC and*

*Directive 2009/73/EC; or*

*(b) where no disclosure requirements exist under subparagraph a), has not been made public and, if it were made public, could significantly affect the prices of such wholesale energy products. Such inside information only constitutes the following:*

– information a reasonable **professional** market participant would be likely to use as part of the basis of his decision to enter into transaction relating to a wholesale energy product is information which, if it were made public, would be likely to have a significant effect on the prices of such wholesale energy products; *or*

– information **which is price-sensitive and precise** information related to the capacity of facilities for production, storage, consumption or transmission of electricity or natural gas *or LNG-facility*, as well as information which is **routinely made available to the relevant wholesale energy market**, *or* required to be disclosed in accordance with **national** legal or regulatory provisions, market rules, contracts or **accepted market practices** on the relevant wholesale market.

***For the purposes of applying the second subparagraph, information shall be deemed to be of a precise nature if it indicates a set of circumstances which exists or may reasonably be expected to come into existence or an event which has occurred or may reasonably be expected to do so and if it is specific enough to enable a conclusion to be drawn as to the possible effect of that set of circumstances or event on the prices of wholesale energy products.***

Or. en

#### *Justification*

*REMIT shall create legal certainty for market participants about what information they*

*should disclose or receive and what they have to do to discharge their responsibilities under REMIT. Therefore the definition of inside information is linked to the relevant statutory requirements of the third Energy Package.*

**Amendment 43**  
**Kay Swinburne**

**Proposal for a regulation**  
**Article 2 – point 1 – subparagraph 2**

*Text proposed by the Commission*

For the purposes of applying the first subparagraph, information a reasonable market participant would be likely to use as part of the basis of his decision to enter into a transaction relating to a wholesale energy product is information which, if it were made public, would be likely to have a significant effect on the prices of such wholesale energy products. Such information includes information related to the capacity of facilities for production, storage, consumption or transmission of electricity or natural gas, as well as information which is required to be disclosed in accordance with legal or regulatory provisions at Union or national level, market rules, and contracts or customs on the relevant wholesale energy market.

*Amendment*

For the purposes of applying the first subparagraph, information a reasonable market participant would be likely to use as part of the basis of his decision to enter into a transaction relating to a wholesale energy product is information which, if it were made public, would be likely to have a significant effect on the prices of such wholesale energy products. Such information includes information related to ***updated estimates of energy reserves***, the capacity of facilities for production, storage, consumption or transmission of electricity or natural gas, as well as information which is required to be disclosed in accordance with legal or regulatory provisions at Union or national level, market rules, and contracts or customs on the relevant wholesale energy market.

Or. en

**Amendment 44**  
**Markus Ferber**

**Proposal for a regulation**  
**Article 2 – point 1 – subparagraph 3**

*Text proposed by the Commission*

***By way of example, information which is required to be made public in accordance***

*Amendment*

***deleted***

*with the provisions of Regulation (EC) No. 714/2009 or Regulation (EC) No. 715/2009, including guidelines and network codes adopted pursuant to those Regulations, can constitute inside information.*

Or. en

**Amendment 45**  
**Dirk Sterckx**

**Proposal for a regulation**  
**Article 2 – point 2 – subpoint a – indent 2**

*Text proposed by the Commission*

– secure or attempt to secure, by a person or by persons acting in collaboration, the price of one or several wholesale energy products at an abnormal or artificial level, unless the person who entered into the transactions or issued the orders to trade establishes that his reasons for doing so are legitimate *and that these transactions or orders to trade conform to accepted market practices on the wholesale energy market concerned*; or

*Amendment*

– secure or attempt to secure, by a person or by persons acting in collaboration, the price of one or several wholesale energy products at an abnormal or artificial level, unless the person who entered into the transactions or issued the orders to trade establishes that his reasons for doing so are legitimate; or

Or. nl

*Justification*

*Not all ‘accepted market practices’ are acceptable. It is precisely because certain ‘accepted’ market practices, such as withholding technically available production capacity, are unacceptable that the European Union intends to legislate.*

**Amendment 46**  
**Kay Swinburne**

**Proposal for a regulation**  
**Article 2 – point 2 – subpoint b a (new)**

*Text proposed by the Commission*

*Amendment*

***(ba) withholding of information on innovative means and methods of electricity generation and gas drilling, and their market potential, to ensure the predominance of conventional energy techniques, and the profitability of related wholesale energy markets.***

Or. en

**Amendment 47**  
**Philippe Lamberts**

**Proposal for a regulation**  
**Article 2 – point 2 – subpoint b a (new)**

*Text proposed by the Commission*

*Amendment*

***(ba) trading in spot and derivatives energy markets leading to false price signals as well as the build up of asset bubbles, namely the decoupling from the physically available electricity and gas in the market from the trade volumes contracted.***

Or. en

**Amendment 48**  
**Philippe Lamberts**

**Proposal for a regulation**  
**Article 2 – point 4 – subpoint a**

*Text proposed by the Commission*

*Amendment*

(a) contracts for the supply of natural gas or electricity;

(a) ***all*** contracts for the supply of natural gas or electricity;

Or. en



**Amendment 49**  
**Philippe Lamberts**

**Proposal for a regulation**  
**Article 3 – paragraph 4 – subparagraph 1**

*Text proposed by the Commission*

Market participants shall publicly disclose inside information in respect of business or facilities which the participant concerned owns or controls or for which the participant is responsible for operational matters, either in whole or in part. Such information shall include information relevant to the capacity of facilities for production, storage, consumption or transmission of electricity or natural gas.

*Amendment*

Market participants shall ***simultaneously, effectively, immediately and*** publicly disclose inside information in respect of business or facilities which the participant concerned owns or controls or for which the participant is responsible for operational matters, either in whole or in part. Such information shall include information relevant to the capacity of facilities for production, storage, consumption or transmission of electricity or natural gas.

Or. en

**Amendment 50**  
**Philippe Lamberts**

**Proposal for a regulation**  
**Article 6 – paragraph 1**

*Text proposed by the Commission*

1. The Agency shall monitor trading activity in wholesale energy products to detect and prevent trading based on inside information and market manipulation. It shall collect the data for assessing and monitoring wholesale energy markets as provided for in Article 7.

*Amendment*

1. The Agency shall monitor trading activity in wholesale energy products ***(including OTC transactions), emission allowance certificates and oil and coal markets*** to detect and prevent trading based on inside information and market manipulation, ***as well as to analyse links between such trading and the events occurring in the related energy product markets***. It shall collect the data for assessing and monitoring wholesale energy markets as provided for in Article 7.

Or. en

**Amendment 51**  
**Philippe Lamberts**

**Proposal for a regulation**  
**Article 6 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. The Agency shall have access to information on the physical reality of grids, pipelines and storage facilities, in order to allow it to proceed to market design, identify bottlenecks, codify capacities and agree on algorithms for grid availability that would ensure fully transparent market conditions.***

Or. en

**Amendment 52**  
**Krišjānis Kariņš**

**Proposal for a regulation**  
**Article 6 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. The Agency shall on monthly basis publish country by country report on price developments in electricity and gas wholesale markets of the European Union.***

Or. en

**Amendment 53**  
**Philippe Lamberts**

**Proposal for a regulation**  
**Article 7 – paragraph 1**

*Text proposed by the Commission*

1. The Agency shall be provided with a record of wholesale energy market transactions, including orders to trade. The Commission shall adopt delegated acts in accordance with Article 15 and subject to conditions of Articles 16 and 17, laying down the timing, form and content in which this information is reported and, where appropriate, defining thresholds for the reporting of transactions as well as specifying types of contracts for which transactions shall be reported.

*Amendment*

1. The Agency shall be provided ***timely and directly*** with a record of wholesale energy market transactions, including orders to trade. ***For the purpose of monitoring trading in wholesale energy markets, such collected data should enable the Agency to identify market abuses and to monitor the development of conditions under which market abuses are more likely or dangerous.*** The Commission shall adopt delegated acts in accordance with Article 15 and subject to conditions of Articles 16 and 17, laying down the timing, form and content in which this information is reported and, where appropriate, defining thresholds for the reporting of transactions as well as specifying types of contracts for which transactions shall be reported.

Or. en

**Amendment 54**  
**Dirk Sterckx**

**Proposal for a regulation**  
**Article 7 – paragraph 1 – subparagraph 1 a (new)**

*Text proposed by the Commission*

***The Commission shall adopt delegated acts in accordance with Article 15 and subject to the conditions of Articles 16 and 17, specifying the de-minimis threshold below which transactions are exempt from the information requirements because, in view of their small size, they cannot affect energy markets.***

*Amendment*

Or. nl

**Amendment 55**

**Dirk Sterckx**

**Proposal for a regulation**

**Article 7 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4a. In adopting delegated acts pursuant to this article, the Commission shall avoid double information requirements and disproportionate administrative burden by taking account of information requirements imposed by other relevant European legislation.***

Or. nl

**Amendment 56**

**Philippe Lamberts**

**Proposal for a regulation**

**Article 10 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

National regulatory authorities shall ensure that the prohibitions set out in Articles 3 and 4 are applied.

National regulatory authorities shall ensure ***with the support of the Agency*** that the prohibitions set out in Articles 3 and 4 are applied.

Or. en

**Amendment 57**

**Philippe Lamberts**

**Proposal for a regulation**

**Article 10 – paragraph 1 – subparagraph 2 – introductory part**

*Text proposed by the Commission*

*Amendment*

Each Member State shall ensure that national regulatory authorities have the investigatory powers necessary for the exercise of this function. These powers

Each Member State shall ensure that national regulatory authorities have the investigatory powers necessary for the exercise of this function ***with the support***

shall be exercised in a proportionate manner. These powers may be exercised:

*of the Agency*. These powers shall be exercised in a proportionate manner. These powers may be exercised:

Or. en

**Amendment 58**  
**Philippe Lamberts**

**Proposal for a regulation**

**Article 10 – paragraph 1 – subparagraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

*(ca) by request of the Agency in case its initial assessments have provided robust information to support recommendations to do so.*

Or. en

**Amendment 59**  
**Philippe Lamberts**

**Proposal for a regulation**

**Article 11 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

National regulatory authorities shall cooperate with the Agency and with each other for the purpose of carrying out their duties in accordance with this Regulation.

National regulatory authorities shall cooperate with the Agency and with each other for the purpose of carrying out their duties in accordance with this Regulation. *This cooperation can also take the form of regional cooperation of national regulatory authorities within the structure of the Agency in order to reflect market realities.*

Or. en

**Amendment 60**  
**Philippe Lamberts**

**Proposal for a regulation**  
**Article 11 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

Where a national regulatory authority suspects that acts which affect wholesale energy markets or the price of wholesale energy products in that Member State are being carried out in another Member State, ***it may*** request the Agency to take measures in accordance with paragraph 4.

*Amendment*

Where a national regulatory authority suspects, ***or initial assessments and analysis by the Agency suggest*** that acts which affect wholesale energy markets or the price of wholesale energy products in that Member State are being carried out in another Member State, ***the national regulatory authority shall*** request the Agency to take measures in accordance with paragraph 4.

Or. en

**Amendment 61**  
**Kay Swinburne**

**Proposal for a regulation**  
**Article 11 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. In close cooperation with competent national regulatory and financial authorities ESMA shall investigate potential loopholes in existing supervision of the energy-related financial markets and products, and take, where appropriate, all necessary measures to prevent market abuse.***

Or. en

**Amendment 62**  
**Dirk Sterckx**

**Proposal for a regulation**  
**Article 13**

*Text proposed by the Commission*

The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by... at the latest and shall notify it without delay of any subsequent amendment affecting them.

*Amendment*

The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by... at the latest and shall notify it without delay of any subsequent amendment affecting them.

***By 31 December 2012 at the latest, the Commission shall adopt delegated acts as referred to in Article 15 and in accordance with the conditions laid down in Articles 16 and 17 laying down minimum standards for penalties, with the aim of bringing about a completely harmonised system of penalties in the European Union.***

Or. nl

**Amendment 63**  
**Philippe Lamberts**

**Proposal for a regulation**  
**Article 13**

*Text proposed by the Commission*

The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by ...

*Amendment*

The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. ***European Union wide minimum standards for penalties to be***

at the latest and shall notify it without delay of any subsequent amendment affecting them.

*endorsed by 2012 should be set at the level of at least two times the total of the direct and indirect potential financial gains resulting from the actions this directive seeks to prevent.* The Member States shall notify those provisions to the Commission by ... at the latest and shall notify it without delay of any subsequent amendment affecting them.

Or. en

**Amendment 64**  
**Krišjānis Kariņš**

**Proposal for a regulation**  
**Article 13 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*After all Member States have notified to the Commission the rules on penalties applicable to infringements of the provisions of this Regulation, the Commission shall once every three years review the effectiveness of national systems of penalties and evaluate the necessity of introduction of a system of penalties on the European Union level. The Commission shall inform the European parliament and the Council about the results of this evaluation.*

Or. en

**Amendment 65**  
**Dirk Sterckx**

**Proposal for a regulation**  
**Article 17 a (new)**

*Text proposed by the Commission*

*Amendment*

*Article 17a*



### ***Report***

***In view of the considerable mutual influence between trading in greenhouse gas emission rights within the Community and transactions on wholesale energy markets, the Commission shall, no later than 31 December 2011, report to the European Parliament and the Council on a possible extension of the scope of this Directive to trading in greenhouse gas emission rights within the Community. The report shall, if appropriate, be accompanied by a legislative proposal.***

Or. nl