



---

*Plenary sitting*

---

**A9-0261/2023**

8.9.2023

**\*\*\*I**

## **REPORT**

on the proposal for a regulation of the European Parliament and of the Council amending Regulations (EU) No 1227/2011 and (EU) 2019/942 to improve the Union's protection against market manipulation in the wholesale energy market  
(COM(2023)0147 – C9-0050/2023 – 2023/0076(COD))

Committee on Industry, Research and Energy

Rapporteur: Maria da Graça Carvalho

***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

***Amendments to a draft act*****Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

**Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ***■*** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

## CONTENTS

	<b>Page</b>
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION .....	5
EXPLANATORY STATEMENT .....	57
ANNEX: LIST OF ENTITIES OR PERSONS FROM WHOM THE RAPPOREUR HAS RECEIVED INPUT .....	59
OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS .....	60
LETTER OF THE COMMITTEE ON BUDGETS.....	78
PROCEDURE – COMMITTEE RESPONSIBLE .....	81
FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE .....	82



## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council  
Amending Regulations (EU) No 1227/2011 and (EU) 2019/942 to improve the Union's  
protection against market manipulation in the wholesale energy market  
(COM(2023)0147 – C9-0050/2023 – 2023/0076(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2023)0147),
  - having regard to Article 294(2) and Article 194(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0050/2023),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee of 14 June 2023<sup>1</sup>,
  - after consulting the Committee of the Regions,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the opinion of the Committee Economic and Monetary Affairs,
  - having regard to the letter from the Committee on Budgets,
  - having regard to the report of the Committee on Industry, Research and Energy (A9-0261/2023),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

---

<sup>1</sup> OJ C 293, 18.8.2023, p. 138.

## Amendment 1

### AMENDMENTS BY THE EUROPEAN PARLIAMENT\*

to the Commission proposal

-----

Proposal for a

### **REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Regulations (EU) No 1227/2011 and (EU) 2019/942 to improve the Union's protection against market manipulation in the wholesale energy market**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Open and fair competition in the internal markets for electricity and for gases and ensuring a level playing field for market participants requires integrity and transparency of wholesale energy markets. Regulation (EU) No 1227/2011 of the European Parliament and of the Council establishes a comprehensive framework ('REMIT') to achieve this objective. To enhance the public's trust in functioning energy markets and to protect the Union effectively

---

\* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol **■**.

against market **abuse**, Regulation (EU) No 1227/2011 should be amended to further increase transparency and **strengthen** monitoring capacities, ***thereby contributing to the stabilisation of energy prices and consumer protection***, as well as to ensure more effective investigation and enforcement of potential cross-border market abuse cases addressing the shortcomings identified in the current framework.

- (2) Financial instruments, including energy derivatives, traded on energy markets are of increasing importance. Due to the increasingly close interrelation between financial markets and energy wholesale markets, Regulation (EU) No 1227/2011 should be better aligned with the financial market legislation such as Regulation (EU) No 596/2014 of the European Parliament and of the Council<sup>1</sup>, including with respect to the definitions of market manipulation and inside information respectively. More specifically the definition of market manipulation in Regulation (EU) No 1227/2011 should be slightly adjusted to mirror Article 12 of Regulation (EU) No 596/2014. To that end, the definition of market manipulation under Regulation (EU) No 1227/2011 should be adjusted to capture the entering into any transaction, or issuing any order to trade, but also 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.
- (3) The definition of inside information should also be adjusted to mirror Regulation (EU) 596/2014. In particular, where inside information concerns a process which occurs in stages, each stage of the process as well as the overall process could constitute inside information. An intermediate step in a protracted process may in itself constitute a set of circumstances or an event which exists or where there is a realistic prospect that they will come into existence or occur, on the basis of an overall assessment of the factors existing at the relevant time. However, that notion should not be interpreted as meaning that the magnitude of the effect

---

<sup>1</sup> Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1).

of that set of circumstances or that event on the prices of the **wholesale energy products** concerned must be taken into consideration. An intermediate step should be deemed to be inside information if it, by itself, meets the criteria laid down in this Regulation for inside information. ***The Commission should be able, by means of delegated acts, to further specify the definition of inside information. There should be a contact point at the Agency for market participants seeking clarification on whether specific information would constitute inside information pursuant to Regulation (EU) No 1227/2011 and the relevant delegated acts adopted pursuant thereto.***

- (4) This Regulation is without prejudice to Regulations (EU) 596/2014, 600/2014 and 648/2012, and Directive (EU) 2014/65 as well as to the application of European competition law to the practices covered by this Regulation.
- (5) Sharing of information between national regulatory authorities and the national competent financial authorities is a central aspect of cooperation and detection of potential breaches in both the wholesale energy markets and the financial markets. In the light of the exchange of information between competent authorities pursuant to Regulation (EU) 596/2014 at national level, national regulatory authorities should share relevant information they receive with national financial and competition authorities.
- (6) Where information is not, or no longer, sensitive from a commercial or security viewpoint, the European Agency for the Cooperation of Energy Regulators (the ‘Agency’<sup>11</sup>) should be able to make that information available to market participants and the wider public ***in an accessible format*** with a view to contributing to enhanced market knowledge. This should include the possibility for ***the Agency*** to publish information on organised market places, IIPs, RRM ***in accordance with*** applicable data protection ***law*** in the interest of improving transparency of wholesale energy markets and provided it does not distort competition on those energy markets.
- (6a) ***Where information is not, or is no longer, sensitive from a commercial point of view, the Agency should be able to make its commercially non-sensitive trade database available for scientific purposes, subject to confidentiality requirements, with a view to contributing to enhanced market knowledge. This is intended to help to build confidence in the market and to foster the development of knowledge about the functioning of wholesale energy markets. The Agency should establish and make publicly available rules on how it will***



*make the information available for scientific and transparency purposes in a fair and transparent manner.*

- (6b) *A market participant, as defined in Article 2, point (7), Regulation (EU) No 1227/2011, should be understood to refer to any person, including a transmission system operator, a distribution system operator, a storage system operator and an LNG system operator, who enters into transactions in one or more wholesale energy markets. However, where a distribution system operator, storage system operator and LNG system operator does not enter into a transaction with regard to wholesale energy products, they should become exclusively subject to the relevant publication and disclosure obligations under Article 4 and Article 8(5) of Regulation (EU) No 1227/2011.*
- (6c) *Market participants should provide the Agency with the data regarding the contracts for the supply of electricity or natural gas and the derivatives related to electricity and natural gas, which may result in an effective physical delivery in the Union.*
- (7) Organised market places which carry out activities relating to the trading of wholesale energy products that are financial instruments under Article 4(1)(15) of Directive (EU) 2014/65 shall be duly authorized pursuant to the requirements of that Directive.
- (8) The use of trading technology has evolved significantly in the past decade and is increasingly used on the wholesale energy markets. Many market participants use algorithmic trading and high-frequency algorithmic techniques with minimal or no human intervention. The risks arising from these practises should be addressed under Regulation (EU) No 1227/2011.
- (9) Compliance with the reporting obligations under Regulation (EU) No 1227/2011 and the quality of the data that the Agency receives is of utmost importance to ensure effective monitoring and detection of potential breaches to achieve the objective of Regulation (EU) No 1227/2011. Inconsistencies in the quality, formatting, reliability and cost of trading data have a detrimental effect on transparency, consumer protection and market efficiency. It is essential that the information received by the Agency is accurate and complete for it to effectively carry out its tasks and functions. *The Agency should in turn contribute to the establishment of a common Union energy data strategy.*
- (10) To improve the Agency's market monitoring and make data collection more complete, the current reporting regime needs improvement. The data collected should be expanded to

overcome gaps in the data collection and include coupled markets, new balancing markets, contracts for balancing markets, ***explicitly and implicitly allocated transmission capacity***, and products that have potential delivery in the Union. Organised market places should be required to provide the full order book data set to the Agency. ■

- (11) Inside Information Platforms (IIPs) should play an important role for the effective and timely publication of inside information. It should be mandatory ***for market participants*** to disclose inside information on dedicated IIPs to make the information easily accessible and enhance transparency. ***Market participants may, only in addition, continue to use other channels, including market participants' websites, to disclose the inside information, provided that equal conditions on timelines and accessibility are ensured.*** To ensure trust in the IIPs they should be authorised and registered, ***and the Agency's supervisory powers over IIPs should be extended to include the power to impose fines and periodic penalty payments and to issue public notices. However, market participants should not be held responsible or liable with respect to the obligation to disclose inside information, in the case of temporary technical problems of duly registered and authorised IIPs or for any publication error caused by the IIP, provided that the information was transmitted to the IIP in time and using the requisite format.***
- (12) To streamline and make the reporting of data to the Agency more effective, the information should be provided through Registered Reporting Mechanisms (RRMs) and the operation of RRM should be authorised by the Agency. The RRM should at all times comply with the conditions for authorisation and data protection law. The Agency should also establish a register of all RRM in the Union. ***The Agency should have the power to withdraw such authorisation in certain cases. The Agency's supervisory powers over RRM should be extended to include the power to impose fines and periodic penalty payments and to issue public notices.***
- (13) In order to facilitate monitoring to detect potential trading based on inside information and data quality of collected information, the collection of inside information needs to be aligned with the current processes for trade data reporting.
- (13a) The reporting obligations on market participants should be minimised by collecting the required information or parts thereof from existing sources where possible.***

- (14) Persons professionally arranging and executing transactions have the obligation to report suspicious transactions in breach of the provisions on insider trading and market manipulation. To enhance the possibility of enforcement of such breaches, the persons professionally arranging transactions should also have the obligation to report suspicious orders and potential breaches of the obligation to publish inside information. Direct electronic access providers, ***where they are not providing arrangement services to third parties***, and shared order-book providers should ***not*** be considered ***to be*** persons professionally arranging transactions.
- (15) Commission Regulation (EU) 2015/1222 establishing a guideline on capacity allocation and congestion management foresees the possibility of third country participation in the Union single day-ahead and intraday coupling in the electricity sector. Since the market coupling operator uses a specific algorithm to match bids and offers in an optimal manner, this may result in orders to trade being placed in a third country participating in the Union single day-ahead and intraday coupling but resulting in a contract for the supply of electricity with delivery in the Union. The placing of such orders to trade in third countries participating in the Union single day-ahead and intraday coupling that may result in delivery in the Union should be covered by the definition of wholesale energy product pursuant to this Regulation.
- (16) In order to obtain an accurate, objective and reliable assessment of the price for LNG deliveries to the Union, the Agency should collect all the ***relevant*** LNG market data that are necessary to establish a daily LNG price assessment ***and benchmark***. The price assessment ***and benchmark*** should be undertaken based on all transactions pertaining to ***relevant*** LNG deliveries ***into*** the Union. ***The Agency*** should be empowered to collect this market data from all participants active in LNG deliveries ***into*** the Union. All such participants should be obliged to report ***a record*** of their LNG market data to ***the Agency***. Once established, the LNG price assessment and the ***benchmark*** could also become a reference rate for derivatives contracts used for hedging the price of LNG or the difference in price between the LNG price and other gas prices. ***The Agency should minimise the burden imposed on LNG market participants by optimising the collection process of the relevant data through the existing sources and reporting mechanisms in place under Regulation (EU) No 1227/2011. Where the Agency finds that an LNG market participant has not submitted the required information, it should be able to impose fines or periodic penalty payments.***

- (17) Delegation of tasks and responsibilities can be an effective instrument to reduce duplication of tasks, foster cooperation and reduce the burden imposed on market participants. Therefore a clear legal basis should be provided for such delegation. ***Where this does not entail an excessive administrative burden on market participants***, national regulatory authorities should be able to delegate tasks and responsibilities to another national regulatory authority ***or to the Agency, with the delegates' prior approval***. Introducing specific conditions and limiting the scope for the delegation to what is necessary for the effective supervision of cross-border market participants or groups should be possible. Delegations should be governed by the principle of allocating competence to an authority which is best placed to take action on the subject matter.
- (17a) ***To enhance the effectiveness of national regulatory authorities and restore public confidence in institutions, the rules on the performance of the duties of national regulatory authorities and the Agency have to ensure that conflicts of interest are avoided as far as possible, in particular in connection with the performance of certain duties.***
- (18) A uniform and stronger framework to prevent market manipulation and other breaches of Regulation (EU) No 1227/2011 in the Member States is necessary. Penalties for breaches of that Regulation should be proportionate, effective and dissuasive and reflect the type of the breaches, taking into account the *ne bis in idem* principle. ***At the same time, Member States are able, inter alia, to provide for effective, proportionate and dissuasive criminal penalties, considering that they are an effective tool in the financial sector.*** Administrative penalties, penalty payments and supervisory measures are complementary parts of an effective enforcement regime. A harmonised supervision of the wholesale energy market requires a consistent approach among national regulatory authorities, ***which should be provided with the appropriate financial, human and technical resources in order to adequately fulfil their tasks.***
- (19) To date, the supervision and enforcement of activities under Regulation (EU) No 1227/2011 have been the responsibility of the Member States. Market abuse behaviours are increasingly cross-border in nature, often affecting several Member States. Enforcement action against cross-border market abuses can present jurisdictional challenges relating to the identification of the national regulatory authority that would be best placed to pursue the investigation in question.

- (20) Market abuse cases involving multiple cross-border elements and market participants established outside the Union are also particularly challenging from an enforcement perspective. The current supervisory set-up is not appropriate for the desired level of market integration. The absence of a mechanism to ensure the best possible supervisory decisions for cross-border cases, where joint action by national regulatory authorities and the Agency currently requires complicated arrangements and where there is a patchwork of supervisory regimes must be addressed. There is **■** a need to set up an efficient and effective supervisory and investigatory regime for *that* type of market abuse cases, which cannot, due to its Union wide features, be addressed by Member State action alone, ***in particular where the national regulatory authorities are not already taking action.***
- (21) The investigation of breaches of this Regulation with a cross-border dimension should be carried out through a uniform process at Union level. Complexity of cross-border cases and the need to ensure sufficient resources for such cases requires involvement of the Agency, in particular in more integrated energy market. Since the entry into force of Regulation (EU) No 1227/2011, the Agency has gained significant experience in monitoring and collecting relevant data on the wholesale energy markets in the Union to ensure their integrity and transparency. Building on this experience, the Agency should be empowered to carry out investigations to fight against the breaches of the provisions of Regulation (EU) No 1227/2011, ***including by appointing an independent investigating officer within the Agency with powers to conduct on-site inspections, request information and conduct interviews.*** The Agency should carry out such investigations in cooperation with the national regulatory authorities with the purpose of supporting and complementing their enforcement activities. Equally, in the context of an investigation by the Agency, where necessary, relevant national regulatory authorities should cooperate amongst each other in assisting the Agency.
- (21a) ***To fulfil the new obligations assigned to it, in particular those relating to enhanced investigatory and sanctioning powers in cross-border cases, the Agency should have adequate staff and the ability to hire additional personnel, if necessary.***
- (22) The Agency should be empowered to carry out investigations by conducting on-site inspections and by issuing requests for information to the persons under investigations, in particular where the suspected breaches of Regulation (EU) No 1227/2011 have a clear cross-border dimension. In undertaking the on-site inspections and in issuing requests for

information to the persons under investigations, the Agency should closely and actively cooperate with the relevant national regulatory authorities, which in turn should provide the Agency with full assistance, including where a person refuses to be subject to the inspection or to provide the requested information. It is important that the procedural guarantees and fundamental rights of the persons ■ subject to the Agency's investigations are fully respected. The confidentiality of the information submitted by the persons subject to the investigation should be safeguarded exchanged in accordance with applicable Union data protection rules.

- (23) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States, but can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective,

HAS ADOPTED THIS REGULATION:

## Article 1

### Amendments to Regulation (EU) No 1227/2011

Regulation (EU) No 1227/2011 is amended as follows:

(1) Article 1 is amended as follows:

(a) Second paragraph is amended as follows:

“2. This Regulation applies to trading in wholesale energy products. This Regulation is without prejudice to the application of **Regulations (EU) 596/2014**, (EU) 600/2014 and ■ (EU) 648/2012 **and Directive (EU) 2014/65** as regards activities involving financial instruments as defined **in** Article 4(1), **point** (15), of Directive (EU) 2014/65, as well as to the application of European competition law to the practices covered by this Regulation.”;

(b) In Article 1(3) the following second subparagraph is added:

“The Agency, national regulatory authorities, ESMA and competent financial authorities of the Member States shall ■ exchange relevant information and data on a regular, at least quarterly, basis regarding potential breaches of Regulation (EU) No 596/2014 ■ involving wholesale energy products covered by this Regulation.”;

**(ba) paragraph 4 is replaced by the following:**

**“4. The Agency's Administrative Board shall ensure that the Agency carries out the tasks assigned to it under this Regulation in accordance with this Regulation and Regulation (EC) No 713/2009 and that the Agency has adequate staff and the ability to hire additional personnel, if necessary, to fulfil the new obligations assigned to it.”;**

(2) Article 2 is amended as follows:

(a) **in** point (1), the second subparagraph, the following point ■ is **inserted**:

**“(ca) information *which is* conveyed by a *market participant*, or by other persons acting on the *market participant's* behalf, to a service provider trading on the *market participant's behalf and relating to the market participant's* pending orders in wholesale energy products, which is of a precise nature *and relates***



directly or indirectly ■ to one or more wholesale energy products”;

- (b) the third subparagraph is replaced by the following:

“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 **occur**, 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. Information may be deemed to be of **a** precise nature if it relates to a protracted process that is intended to bring about, or that results in, particular circumstances or a particular event, including future circumstances or future events, and also if it relates to the intermediate steps of that process which are connected with bringing about or resulting in those future circumstances or that future event.

An intermediate step in a protracted process shall be deemed to be inside information if, by itself, it satisfies the criteria of inside information as referred to in this **point**.

For the purposes of **this point**, information which, if it were made public, would be likely to significantly affect the prices of **the** wholesale energy products **means** information **that** a reasonable **market participant** would be likely to use as part of the basis of his or her ■ decision(s) **to enter into a transaction relating to, or to issue an order to trade in, a wholesale energy product**.

***For the purposes of this point, information that has a possible effect on the demand, supply or prices of a wholesale energy product, or on the expectations of the demand, supply or prices of a wholesale energy product, shall be considered to be directly or indirectly related to the wholesale energy product.”;***

- (c) paragraph (2), point (a) is replaced by the following:

(2) ‘market manipulation’ means:

- (a) entering into any transaction, **or** issuing, **modifying or withdrawing** any order to trade or engaging in any other behaviour relating to wholesale energy products **or relevant infrastructure** 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, unless the person who entered into the transaction or issued the order to trade establishes that his reasons for doing so are legitimate and that that transaction or order to trade conforms to accepted market practices on the wholesale energy market concerned; 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;

or
- (d) in paragraph (2), the following point (c) is added and preceded by the word ‘or’ at the end of point (b):
 

“(c) transmitting false or misleading information or providing false or misleading *input* in relation to a benchmark where the person who made the transmission or provided the input knew or ought to have known that it was false or misleading, or engaging in any other behaviour which leads to the manipulation of the calculation of a benchmark.”;
- (e) at the end of paragraph (2) the following subparagraph is added:
 

“Market manipulation may designate the conduct of a legal person, *or*, in accordance with ■ Union or national law, of *a* natural *person* who *participates* in the decision to carry out activities for the account of the legal person concerned.”;
- (f) in paragraph (4), point (a) is replaced by the following:
 

“(4) ‘wholesale energy products’ means the following contracts and derivatives, irrespective of where and how they are traded:

  - (a) contracts for the supply of electricity or natural gas, *including LNG*, where delivery is in the Union or contracts for the supply of electricity or natural gas, which may result in delivery in the Union, *as a result of single day-ahead and intraday coupling*;

*(aa) contracts and derivatives relating to the electricity and natural gas storage in the Union;”;*

*(fa) point (4) (b) is replaced by the following:*

*“(b) derivatives relating to electricity or natural gas produced, traded or delivered in the Union, or derivatives relating to electricity or natural gas which may result in delivery in the Union, as a result of single day-ahead and intraday coupling;”*

(g) paragraph (7) is replaced by the following:

“(7) ‘market participant’ means any person, including transmission system operators, *distribution system operators, storage system operators and LNG system operators*, who enters into transactions, including the placing of orders to trade, in one or more wholesale energy markets; ”;

(h) the following new paragraph (8a) is inserted:

“(8a) ‘person professionally arranging or executing transactions’ means a person professionally engaged in the reception and transmission of orders for, or in the execution of transactions in, wholesale energy products;”;

(i) the following new paragraph (10a) is added:

“(10a) ‘the Agency’ or ‘ACER’ means the European Union Agency for the Cooperation of Energy Regulators;”;

(j) the following points are inserted:

“(16) ‘registered reporting mechanism’ or ‘RRM’ means a person registered under this Regulation *to report or* to provide the service of reporting details of transactions, including orders to trade, and fundamental data *as defined in Article 2, second subparagraph, point (1), of Implementing Regulation (EU) No 1348/2014*, to the Agency on *its own behalf or on* behalf of market participants;

(17) ‘inside information platform’ or ‘IIP’ means a person registered under this Regulation to provide the service of operating a platform for the disclosure of inside information and for the reporting of disclosed inside information to the

Agency on behalf of market participants.

- (18) ‘algorithmic trading’ means trading, ***including high-frequency trading***, in wholesale energy products where a computer algorithm automatically determines individual parameters of orders to trade such as whether to initiate the order, the timing, price or quantity of the order or how to manage the order after its submission, with limited human intervention or no such intervention at all, not including any system that is only used for the purpose of routing orders to one or more organised market places or for the processing of orders involving no determination of any trading parameters or for the confirmation of orders or the post-trade processing of executed transactions;
- (19) ‘direct electronic access’ means an arrangement whereby a member, participant or client of an organised market place allows another person to use its trading code so the person may electronically transmit orders to trade relating to a wholesale energy product directly to the organised market place, including arrangements which involve the use by a person of the infrastructure of the member, participant or client, or any connecting system provided by the member, participant, or client, to transmit the orders to trade (direct market access) and arrangements whereby such an infrastructure is not used by a person (sponsored access);
- (20) ‘organised market place’ ***or ‘OMP’*** means an energy exchange, an energy broker, an energy capacity platform or any other ***system or facility in which multiple third-party buying or selling interests in wholesale energy products interact in a way that may result in a transaction***;
- (20a) ‘order book’ means all details of wholesale energy products executed at organised market places including matched and unmatched orders as well as system-generated orders and life cycle events;***
- (21) ‘LNG trading’ means ***entering into any transaction, including orders to trade in an organised market place or taking any other action relating to*** the purchase or sale of LNG:
- (a) that ***specifies physical*** delivery in the Union;
  - (b) that ***results*** in delivery in the Union; or

(c) in which one counterparty re-gasifies the LNG at a terminal in the Union.

(22) ‘LNG market data’ means records of **■** transactions, *orders to trade and any other action relating to the purchase or sale of LNG*, with corresponding information as specified in **■** Implementing Regulation (EU) No 1348/2014;

(23) ‘LNG market participant’ means *a market participant who is a* natural or legal person, irrespective of that person’s place of incorporation or domicile, who engages in LNG trading;

(24) ‘LNG price assessment’ means the determination of a daily reference price for LNG trading in accordance with a methodology **■** established by *the Agency*;

(25) ‘**■** benchmark’ means *any index that is periodically or regularly determined by the application of a formula to, or on the basis of the value of, one or more underlying wholesale energy products, including estimated prices, by reference to which the amount payable under a wholesale energy product or a contract relating to a wholesale energy product, or the value of a wholesale energy product, is determined.*”;

(3) in Article 3(1) the following second subparagraph is added:

“The use of inside information by cancelling or amending an order, *the establishment of links or dependencies between orders, or any other action relating to entering into transactions or issuing orders* concerning a wholesale energy product to which the information relates, where the order was placed before the person concerned possessed the inside information, shall also be considered to be insider trading.”;

(4) Article 4 is amended as follows:

*(-a) the title is replaced by the following:*

*“Inside information”;*

(a) in paragraph 1 the following 2<sup>nd</sup> subparagraph is added:

“Market participants shall disclose the inside information through IIPs. The IIPs shall ensure that the inside information is made public in a manner which enables fast access *to that information*, including **■** through a clear application programming interface **■** and *a* complete, correct and timely assessment of *that* information by the

public.”;

- (b) paragraph 4 is replaced by the following:

“4. The publication of inside information, including in aggregated form, in accordance with Regulation (EC) No 714/2009 or (EC) No 715/2009, or guidelines and network codes adopted pursuant to those Regulations constitutes ■ effective ■ disclosure but not necessarily *timely and public* disclosure *within* the meaning of paragraph 1 of this Article.

*4a. The Agency shall establish a contact point for market participants seeking to clarify whether specific information constitutes inside information pursuant to this Regulation.*

*The Agency shall develop and operate a platform serving as a sector-specific electronic access point for inside information disclosed pursuant to paragraph 1.”;*

- (5) The following Article 4a is inserted:

“Article 4a

Authorisation and supervision of IIPs

1. IIPs shall register with the Agency. *They* shall ■ operate *only* after the Agency has assessed whether *they comply* with the requirements of this Article and *after the Agency* has authorised *their* operation. The register of *IIPs* shall be publicly available and shall contain information on the services for which *they are authorised*. The Agency shall regularly review the compliance of IIPs with this Regulation. Where the Agency has withdrawn a registration in accordance with paragraph 5, that withdrawal shall be published in the register for a period of five years from the date of withdrawal.
- 1a. IIPs that have been authorised as Registered Information Services pursuant to Article 11 of Implementing Regulation (EU) No 1348/2014 and that are included in the Agency’s list of IIPs on ... [the date of entry into force of this amending Regulation] shall be treated as complying with this Article and shall be registered as IIPs, until the Agency has taken a decision on the authorisation for those IIPs in accordance with this Article.*

2. **IIPs** shall have adequate policies and arrangements in place to make public the inside information required under Article 4(1) as close to real time as is technically possible **and without undue delay**, on a reasonable commercial basis. The information shall be made available **and easily accessible through a website** for all purposes, free of charge. The IIP shall efficiently and consistently disseminate such information in a **manner** that ensures fast access to the inside information, on a non-discriminatory basis and in a format that facilitates the consolidation of the inside information with similar data from other sources.
3. The inside information **that is** made public by an IIP **pursuant to** paragraph 2 shall include ■ at least ■ the following details depending on the type of inside information:
- (a) the message ID and **the** event status;
  - (b) the publication date, the time and the **beginning** and **end** of the event;
  - (c) the **name and identification of the** market participant ■ ;
  - (d) the bidding or balancing zone concerned;
  - (da) **the type of information (e.g. unavailability, forecast, actual use)**; and
  - (db) where applicable:
    - (i) the type of unavailability and the type of event;
    - (ii) the unit of measurement;
    - (iii) the unavailable, the available and the installed or technical capacity;
    - (iv) **where the installed or technical capacity is unavailable**, the reason for the unavailability;
    - (v) the **type of** fuel ■ ;
    - (vi) the affected asset or unit and its identification code.
4. An IIP shall operate and maintain effective administrative arrangements designed to prevent conflicts of interest with its clients. In particular, an IIP who is also a market operator or market participant shall treat all inside information collected in a non-discriminatory **manner** and shall operate and maintain appropriate arrangements to separate different business functions.

An IIP shall have sound security mechanisms in place designed to guarantee the security of the means of transfer of inside information, minimise the risk of data corruption and unauthorised access and to prevent inside information leakage before publication. The IIP shall maintain adequate resources and **shall** have back-up facilities in place in order to offer and maintain its services ■ .

The IIP shall, **together with market participants**, have **a mechanism** in place **allowing to** quickly and effectively check inside information reports **with regard to their** completeness, identify omissions and obvious errors, and request **to receive a corrected version of such** reports.

- 4a. Where the Agency finds that an IIP has infringed paragraphs 1 to 4 of this Article, before withdrawing an authorisation pursuant to paragraph 5 of this Article, it shall take one or more of the measures provided for in Article 13dc.**
5. The Agency may withdraw the **authorisation** of an IIP **and may remove it from the register**, where the **IIP**:
- (a) does not make use of the authorisation within 12 months, expressly renounces the authorisation or has provided no services for the preceding six months;
  - (b) obtained the registration by making false statements or by any other irregular means;
  - (c) no longer meets the **requirements for authorisation set out in this Article**;
  - (ca) did not bring the infringement to an end pursuant to paragraph 4a;**
  - (d) has seriously and systematically infringed this Regulation.

**In case of such a decision, the Agency shall indicate the right to appeal the decision before the Agency's Board of Appeal and to have the decision reviewed by the Court of Justice in accordance with Articles 28 and 29 of Regulation (EU) 2019/942. The Agency may also lay down obligations to enable compliance with the decision to be monitored.**

**Where the Agency withdraws an authorisation to an IIP pursuant to this paragraph, it shall remove that IIP from the register.**

When the registration has been withdrawn, **to ensure continuity of the services**

*provided by the IIP*, the IIP concerned shall ***inform all relevant market participants and, in consultation with them***, ensure orderly substitution including the transfer of data to other IIPs and the redirection of reporting flows to other IIPs. ***The Agency shall set a reasonable period for such orderly substitution, taking into account the relevant specificities of the IIP concerned.***

The Agency shall, without undue delay, notify the national competent authority in the Member State where the IIP is established of ***any*** decision to withdraw the ***authorisation*** of an IIP ***pursuant to the first subparagraph and shall inform the market participants thereof.***

6. The Commission shall ***adopt delegated acts in accordance with Article 20 to supplement this Regulation by specifying:***
- (a) the means by which an IIP ***is to*** comply with the inside information obligation referred to in paragraph 2;
  - (b) the content ***and any relevant further details*** of the inside information ***made public pursuant to paragraphs 2 and 3*** in such a ***manner*** as to enable the publication of information required under this Article;
  - (c) the concrete organisational requirements for the implementation of ***paragraphs 4 and 5.***

***The first such delegated act shall be adopted by... [six months after the date of entry into force of this amending Regulation].”;***

- (6) The following Article 5a is added:

“Article 5a

#### Algorithmic trading

1. A market participant that engages in algorithmic trading shall have in place effective systems and risk controls suitable to the business it operates to ensure that its trading systems are resilient and have sufficient capacity, are subject to appropriate trading thresholds and limits and prevent the sending of erroneous orders to trade or the systems otherwise functioning in a way that may create or contribute to a disorderly market. The market participant shall also have in place effective systems and risk controls to ensure that the trading systems comply with this Regulation and with the



rules of an organised market place to which it is connected. The market participant shall have in place effective business continuity arrangements to deal with any failure of its trading systems and shall ensure its systems are fully tested and properly monitored to ensure that they meet the requirements laid down in this paragraph.

2. A market participant that engages in algorithmic trading in a Member State shall notify *that* engagement to the national regulatory authorities of *the* Member State *where it is registered pursuant to Article 9(1)* and to the Agency.

The national regulatory authority of the Member State *where* the market participant *is registered pursuant to Article 9(1)*, may require the market participant to provide, on a regular or ad-hoc basis, a description of the nature of its algorithmic trading strategies, details of the trading parameters or limits to which the trading system is subject,   key compliance and risk controls that *are* in place to ensure that the *requirements* laid down in paragraph 1 *of this Article* are satisfied and details of the testing of its trading systems.

The market participant shall arrange for records to be kept in relation to the *matters* referred to in this paragraph and shall ensure that those records are sufficient to enable its national regulatory authority to monitor compliance with this Regulation.

3. A market participant that provides direct electronic access to an organised market place shall notify the competent authorities of *the* Member State *where the market participant is registered pursuant to Article 9(1)* and the Agency accordingly.

The national regulatory authority of the   Member State *where* the market participant *is registered pursuant to Article 9(1)* may require the market participant to provide, on a regular or ad-hoc basis, a description of the systems and *risk* controls referred to in paragraph 1 *of this Article* and evidence that those have been applied.

The market participant shall arrange for records to be kept in relation to the matters referred to in this paragraph and shall ensure that those records be sufficient to enable its national regulatory authority to monitor compliance with this Regulation.

4. This Article is without prejudice to obligations *laid down in* Directive (EU) 2014/65. *The provisions regarding algorithmic trading contained in this Article shall not apply to transmission system operators' areas of activity that use automation, such*

*as the activation of balancing energy, insofar as those automated processes are addressed by the Commission Regulation (EU) 2017/2195<sup>2</sup>.”;*

**(6a)** *in Article 6, paragraph 1 is replaced by the following:*

**“1. The Commission shall be empowered to adopt delegated acts in accordance with Article 20 in order to:**

- (a) align the definitions set out in points (1), (2), (3) and (5) of Article 2 for the purpose of ensuring coherence with other relevant Union legislation in the fields of financial services and energy;**
- (b) update those definitions for the sole purpose of taking into account future developments on wholesale energy markets;**
- (c) further specify the notion of inside information, including with regard to the establishment of a non-exhaustive list of relevant intermediate steps in a protracted process in those cases where, by itself, the information meets the criteria laid down in Article 2, point (1) and in which cases it is to be disclosed in accordance with Article 4(1);**
- (d) establish a list of examples of market manipulation behaviour that are relevant to the application of this Regulation; and**
- (e) establish, taking into account national specificities, minimum thresholds for the identification of events which, if they were made public, would likely to significantly affect the prices of the wholesale energy products.”;**

**(7)** *in Article 7, paragraph 1 is replaced by the following:*

**“1. The Agency shall monitor trading activity in wholesale energy products to detect and prevent trading based on inside information and market manipulation or attempts thereof. It shall collect the data for assessing and monitoring wholesale energy markets as provided for in Article 8.”;**

**(7a)** *in Article 7, paragraph 3 is replaced by the following:*

**“3. The Agency shall at least on an annual basis submit a report to the Commission on**

---

<sup>2</sup> **Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing (OJ L 312 28.11.2017, p. 6).**

*its activities under this Regulation and on implementation and application of this Regulation, and make that report publicly available. In such reports the Agency shall assess, inter alia, the operation and transparency of different categories of market places and ways of trading and may make recommendations to the Commission as regards market rules, standards, and procedures which could improve market integrity and the functioning of the internal market. It may also evaluate whether any minimum requirements for organised markets could contribute to enhanced market transparency. Reports may be combined with the report referred to in Article 11(2) of Regulation (EC) No 713/2009.”;*

(8) New articles from 7a to 7d are added:

“Article 7a

Tasks and powers of *the Agency* to carry out price assessments and benchmarks

1. *The Agency* shall produce and publish a daily LNG price assessment *and a benchmark*. For the purpose of the LNG price assessment, *the Agency* shall systematically collect and process LNG market data on transactions, *also on the basis of the LNG market data reporting in accordance with Article 8(1aa)*. The price assessment shall where appropriate take into account regional differences and market conditions.
- 1a. *For the purpose of producing and publishing the LNG price assessment and benchmark, the Agency may make use of third-party services.*
- 1b. *The Commission is empowered to adopt delegated acts in accordance with Article 20 to supplement this Regulation by establishing rules with regard to:*
  - (a) *the definition of the production and publication of LNG price assessments and benchmarks;*
  - (b) *the LNG reference price assessment and benchmark methodology of the Agency.*

*They shall take account of the implementing acts referred to in Article 8 (2) and (6) with regard to the LNG market data reporting.*

■

## Article 7c

### Provision of LNG market data to *the Agency*

1. LNG market participants shall submit daily to *the Agency* the LNG market data *as provided for in Article 8(1aa), free of charge, through the reporting channels established by the Agency and* in accordance with the specifications set out in the Implementing Regulation (EU) No 1348/2014, in a standardised format, through a high-quality transmission protocol, and as close to real-time as technologically possible before the publication of the daily LNG price assessment .
2. The Commission *is empowered to adopt delegated acts in accordance with Article 20 to supplement this Regulation by* specifying the point in time by which LNG market data is to be submitted *to the Agency, and the timing of the* publication of the LNG price assessment as referred to in *Article 7a*.
3. Where appropriate, *the Agency* shall, after consulting the Commission, issue guidance *with regard to*:
  - (a) the details of the information to be reported, in addition to the current details of reportable transactions and fundamental data under Implementing Regulation (EU) No 1348/2014, including bids and offers; and
  - (b) the procedure, standard and electronic format and the technical and organisational requirements for submitting data to be used for the provision of the required LNG market data.
- 3a. *Where the Agency finds that an LNG market participant, or a person or authority listed in Article 8(4), points (b) to (f) on their behalf, has not submitted the information required pursuant to paragraph 1 of this Article, the Agency may take one or more of the measures provided for in Article 13dc.*

■

(8a) *the following article is inserted:*

#### *“Article 7da*

#### *LNG market data quality*

1. *LNG market data shall include:*

- (a) the parties to the contract, including buy/sell indicator;*
- (b) the reporting party;*
- (c) the transaction price;*
- (d) the contract quantities;*
- (e) the value of the contract;*
- (f) the arrival window for the LNG cargo;*
- (g) the terms of delivery;*
- (h) the delivery points;*
- (i) the timestamp information on all of the following:*
  - (i) the date and time of placing the bid or offer;*
  - (ii) the transaction date and time;*
  - (iii) the date and time of reporting of the bid, offer or transaction;*
  - (iv) the receipt of LNG market data by the Agency.*

**2. LNG market participants shall provide the Agency with LNG market data in the following units and currencies:**

- (a) transaction, bid and offer unit prices shall be reported in the currency specified in the contract and in EUR/MWh and shall include applied conversion and exchange rates if applicable;*
- (b) contract quantities shall be reported in the units specified in the contracts and in MWh;*
- (c) arrival windows shall be reported in terms of delivery dates expressed in UTC format;*
- (d) delivery point shall indicate a valid identifier listed by the Agency such as referred to in the list of LNG facilities subject to reporting pursuant to this Regulation and to Implementing Regulation (EU) No 1348/2014; the timestamp information shall be reported in UTC format;*
- (e) if relevant, the price formula in the long-term contract from which the price*

*is derived shall be reported in its integrity.*

3. *The Agency shall issue guidance regarding the criteria under which a single submitter accounts for a significant portion of LNG market data submitted within a certain reference period and how this situation shall be addressed in its daily LNG price assessment and benchmarks.”;*(9) Article 8 is amended as follows:

(-a) *paragraph 1 is replaced by the following:*

*“1. Market participants, or a person or authority listed in points (b) to (f) of paragraph 4 on their behalf, shall provide the Agency with a record of wholesale energy market transactions, including orders to trade. The information reported shall include the precise identification of the wholesale energy products bought and sold, the price and quantity agreed, the dates and times of execution, the parties to the transaction and the beneficiaries of the transaction and any other relevant information. Market participants shall include information about their exposures, detailed by product, including the transactions that occur over the counter. While overall responsibility lies with market participants, once the required information is received from a person or authority listed in points (b) to (f) of paragraph 4, the reporting obligation on the market participant in question shall be considered to be fulfilled.”;*

(a) the following paragraph 1a is inserted:

**1** 1a. For the purpose of reporting records of *wholesale energy market* transactions, including orders to trade, entered, concluded or executed at organised market places, *where a market participant trades through an organised market place*, those *organised* market places, *or third parties on their behalf*, shall make *the order books* available to the Agency, *in accordance with the specifications set out in the Implementing Regulation (EU) No 1348/2014, thereby fulfilling on behalf of market participants their obligations pursuant to in paragraph 1 of this Article.*

*1aa. LNG market participants and any other person or authority on their behalf, as listed in paragraph 4, points (b) to (f), of this Article shall provide systematically the Agency with a record of LNG market data, in accordance*

*with the specifications set out in the Implementing Regulation (EU) No 1348/2014.”;*

- (b) in paragraph 2, the second subparagraph is replaced by the following:

“Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21(2). They shall take account of existing transaction reporting systems for monitoring trading activity to detect market abuse.”

- (c) in paragraph 3, the first subparagraph is replaced by the following:

3. Persons referred to in points (a) to (d) of paragraph 4 who have reported transactions in accordance with Regulation (EU) 600/2014 or Regulation (EU) 648/2012 shall not be subject to double reporting obligations relating to those transactions.

- (d) paragraph 4 is amended as follows:

*(-i) the introductory part is replaced by the following:*

*“For the purposes of paragraphs 1 and 1a, information shall be provided by:”*

- (i) point (d) is replaced by the following:

(d) an organised market place, a trade-matching system or other person professionally arranging or executing transactions;

- (ii) the following second subparagraph is added:

“The information shall be provided through registered reporting mechanisms.”;

- (e) paragraph 5 is replaced by the following:

“5. Market participants shall provide *the Agency* and national regulatory authorities with information related to the capacity and use of facilities for production, storage, consumption or transmission of electricity or natural gas or related to the capacity and use of LNG facilities, including planned or unplanned unavailability of these facilities, and with inside information *that is* publicly disclosed *pursuant to* Article 4, for the purpose of monitoring trading in wholesale energy markets. The reporting obligations on market participants

shall be minimised by collecting the required information or parts thereof from existing sources where possible.”;

(10) in Article 9, paragraph 1 is replaced by the following:

“1. Market participants entering into transactions which are required to be reported to ***the Agency*** in accordance with Article 8(1) shall register with the national regulatory authority in the Member State in which they are established or resident. Market participants ***that are*** resident or established in a third country shall ***register with the national regulatory authority of the*** Member State in which they ***have declared an office from which they carry out their principal activities. For the purposes of ensuring compliance with this Regulation, such an office shall, upon request of the*** national regulatory authority of that Member State ***or of the Agency, provide access to requested information related to the market participant’s activities in the Union wholesale energy market.***”;

(10a) in Article 9, paragraph 3 is replaced by the following:

“3. ***National regulatory authorities shall transmit the information in their national registers to the Agency in a format determined by the Agency. The Agency shall, in cooperation with those authorities, determine that format and shall publish it by 29 June 2012. Based on the information provided by national regulatory authorities, the Agency shall establish a European register of market participants. National regulatory authorities and other relevant authorities shall have access to the European register. Subject to Article 17, the Agency shall make the European register, or extracts thereof, publicly available provided that commercially sensitive information on individual market participants is not disclosed.***”;

(11) the following Article 9a is inserted:

#### “Article 9a

##### Authorisation and supervision of the Registered Reporting Mechanisms

1. The operation of an RRM shall be subject to prior authorisation by the Agency in accordance with this Article.

The Agency shall authorise parties as RRM where:

(a) the RRM is a legal person established in the Union; and



(b) the RRM meets the requirements laid down in this Article.

*The Agency shall authorise an entity to operate as an RRM within a reasonable period of time and, to the extent possible, within three months of the receipt of the complete application.* The authorisation ■ shall be effective and valid for the entire territory of the Union, and shall allow the RRM provider to provide the services for which it has been authorised throughout the Union.

*RRMs that have been authorised pursuant to Article 11 of the Implementing Regulation (EU) No 1348/2014 and that are included in the Agency's list of RRM on ... [the date of entry into force of this amending Regulation] shall be treated as complying with this Article and shall be registered as RRM, until the Agency has taken a decision on the authorisation for those RRM in accordance with this Article.*

An authorised RRM shall comply at all times with the conditions for authorisation referred to in this Article. An authorised RRM shall, without undue delay, notify *the Agency* of any material changes to the conditions for authorisation.

The Agency shall establish a register of ■ RRM in the Union. The register shall be publicly available and shall contain information on the services for which the RRM is authorised. *The register* shall be updated on a regular basis. ■ .

2. The Agency shall regularly review the compliance of RRM with this Regulation. For *that* purpose, *upon the Agency's request*, RRM shall *provide a* report ■ about their activities to the Agency.
3. RRM shall have adequate policies and arrangements in place to report the information required under Article 8 as *soon* as possible, and *in any event* no later than *as provided for* in the *delegated* acts adopted pursuant to paragraph 5 of this Article.

RRM shall operate and maintain effective administrative arrangements designed to prevent conflicts of interest with its clients. In particular, an RRM that is also an OMP or market participant shall treat all information collected in a non-discriminatory *manner* and shall operate and maintain appropriate arrangements to separate different business functions.

RRMs shall have sound security mechanisms in place designed to guarantee the security and authentication of the means of transfer of information, minimise the risk of data corruption and unauthorised access and to prevent information leakage, maintaining the confidentiality of the data at all times. **RRMs** shall maintain adequate resources and **shall** have back-up facilities in place in order to offer and maintain **their** services **in accordance with** the implementing acts adopted pursuant to Article 8(2) and (6).

RRMs shall, **together with market participants**, have **a mechanism** in place **allowing to** effectively check transaction reports **with regard to their** completeness, identify omissions and obvious errors caused by the market participant, and where such error or omission occurs, to communicate details of the error or omission to the market participant and request **to receive a corrected version of such** reports.

RRMs shall have systems in place to enable **them** to detect errors or omissions caused by **them** and to enable **them** to correct and transmit, or re-transmit as the case may be, correct and complete transaction reports to the Agency.

**3a. Where the Agency finds that a RRM has infringed paragraph 1, 2 or 3 of this Article, before withdrawing an authorisation pursuant to paragraph 4 of this Article, it shall take one or more of the measures provided for in Article 13dc.**

4. The Agency may withdraw the authorisation of an RRM where RRM:
- (a) does not make use of the authorisation within 18 months, expressly renounces the authorisation or has provided no services for the preceding 18 months;
  - (b) obtained the authorisation by making false statements or by any other irregular means;
  - (c) no longer meets the conditions under which it was authorised;
  - (d) has seriously and systematically infringed this Regulation.

***In case of such a decision, the Agency shall indicate the right to appeal the decision before the Agency's Board of Appeal and to have the decision reviewed by the Court of Justice in accordance with Articles 28 and 29 of Regulation (EU) 2019/942. The Agency may also lay down obligations to enable compliance with the decision to be monitored.***

***Where the Agency withdraws an authorisation to an RRM pursuant to this paragraph, it shall remove that RRM from the register.***

An RRM whose authorisation has been withdrawn, ***to ensure continuity of the services provided by the RRM***, shall ***inform all relevant market participants and, in consultation with them***, ensure orderly substitution including the transfer of data to other RRMs and the redirection of reporting flows to other RRMs. ***The Agency shall set a reasonable period for such orderly substitution, taking into account the relevant specificities of the RRM concerned.***

The Agency shall, where relevant, without undue delay, notify the national competent authority in the Member State where the RRM is established of ***any*** decision to withdraw the authorisation of an RRM ***pursuant to the first subparagraph.***

5. The Commission shall ***adopt delegated acts in accordance with Article 20 to supplement this Regulation by specifying:***
- (a) the means by which an RRM ***is to*** comply with the information obligation referred to in paragraph 1; and
  - (b) the concrete organisational requirements for the implementation of paragraphs 2 and 3.

***The first such delegated act shall be adopted by ... [six months after the date of entry into force of this amending Regulation].”;***

- (12) Article 10 is amended as follows:

- (a) paragraph 1 is replaced by the following:

“1. ***The Agency*** shall establish mechanisms to share information it receives in accordance with Article 7(1) and Article 8 with the Commission, national regulatory authorities, competent financial market authorities national competition authorities, ESMA and other relevant authorities at Union level. Before establishing such mechanisms, ACER shall consult with those authorities.”;
- (b) the following paragraph 1a is inserted:

“1a. National regulatory authorities shall establish mechanisms **by which** to share information they receive in accordance with Article 7(2) and Article 8 with the competent financial market authorities, the national competition authorities, the national tax authorities and EUROFISC and other relevant **national** authorities **■** . Before establishing such mechanisms, the national regulatory authority shall consult with the Agency and with those parties.

**(ba) paragraph 2 is replaced by the following:**

**“2. The Agency shall give access to the mechanisms referred to in paragraph 1 of this Article only to authorities which have set up systems enabling the Agency to meet the requirements of Article 12(1).”;**

**(c) the following paragraph 2a is inserted:**

“2a. National regulatory authorities shall give access to the mechanisms referred to in paragraph 1a of this Article only to authorities which have set up systems enabling the national regulatory authority to meet the requirements of Article 12(1).”;

**(13) Article 12 is amended as follows:**

**(a) in paragraph 1, the second subparagraph is replaced by the following:**

“The Commission, national regulatory authorities, competent financial authorities of the Member States, national tax authorities and EUROFISC, national competition authorities, ESMA and other relevant authorities shall ensure the confidentiality, integrity and protection of the information which they receive pursuant to Article 4(2), Article 7(2) Article 8(5) or Article 10 and shall take steps to prevent any misuse of such information including according to applicable data protection laws.”;

**(b) paragraph 2 is replaced by the following:**

**“2. The Agency shall develop and maintain a reference centre of information on Union wholesale energy market data. Subject to Article 17, ACER shall make public parts of the information which it possesses in an accessible format, including information regarding the trading of over the counter wholesale energy contracts, power purchase agreements and contracts for difference, provided that commercially sensitive information on individual market**

participants or individual transactions or individual market places are not disclosed and cannot be inferred. ***The Agency may publish information on OMPs, IIPs, RRM in accordance with applicable data protection law, excluding commercially sensitive elements.***

***The Agency shall make its commercially non-sensitive trade database available for scientific purposes, subject to confidentiality requirements.***

***Information shall be published or made available in the interest of improving transparency of wholesale energy markets and provided it is not likely to create any distortion in competition on those energy markets.***

***The Agency shall disseminate information in a fair manner according to transparent rules which it shall draw up and make publicly available.***

***The Agency may, with regard to areas of common interest, cooperate with supervisory authorities in third countries and international organisations which can provide data, information and expertise, methodologies of data collection, analysis and assessment which are of mutual interest and which are necessary for the successful completion of the Agency's work.”;***

(14) Article 13 is amended as follows:

(a) paragraph 1 is replaced by the following:

“1. National regulatory authorities shall ensure that the prohibitions set out in Articles 3 and 5 and the obligations set out in Articles 4, **7c**, 8, 9 and 15 are applied.

National regulatory authorities shall be competent to investigate all the acts carried out on their national wholesale energy markets and enforce this Regulation **■**, irrespective of where the market participant registered pursuant to Article 9(1) carrying out those acts is resident or established.

Each Member State shall ensure that its national regulatory authorities have the investigatory and enforcement powers necessary for the exercise of that function . Those powers shall be exercised in a proportionate manner.

Those powers may be exercised:

- (a) directly;
- (b) in collaboration with other authorities; ■
- (c) by application to the competent judicial authorities; *or*
- (ca) following a recommendation by the Agency.*

Where appropriate, the national regulatory authorities may exercise their investigatory powers in collaboration with organised markets, trade-matching systems or other persons professionally arranging or executing transactions as referred to in point (d) of Article 8(4).”;

- (b) the following paragraphs ■ are added:

“3. In order to *combat* breaches of ■ this Regulation, to support and complement the enforcement activities of the national regulatory authorities, and to contribute to a uniform application of this Regulation throughout the Union, the Agency *shall, in close and active cooperation with the relevant competent national regulatory authorities*, carry out investigations by exercising the powers conferred onto it by and in accordance with Articles 13a *to 13dc*.

*3a. When exercising the powers referred to in paragraph 3, the Agency shall take into account the investigations already in progress or already carried out with regard to the same acts by a national regulatory authority pursuant to this Regulation. The Agency shall also take into account the cross-border impact of the investigation.*

4. The Agency *shall* exercise its powers to ensure that the prohibitions set out in *Articles 3 and ■ 5 ■* are applied where:

- (a) acts *related to the allegation* are being or have been carried out on wholesale energy products for delivery in at least *two* Member States; ■
- (b) acts *related to the allegation* are being or have been carried on wholesale energy products for delivery in at least *one* Member *State* and at least one of the natural or legal persons who is carrying or carried out *those* acts is resident or established in *another Member State or in* a third country but registered pursuant to Article 9(1); ■

- (c) the competent national regulatory authority, without prejudice to the derogations referred to in Article 16(5), *has not **duly substantiated its refusal** to comply with the request of the Agency referred to in Article 16(4), point (b) in cases in which there is a cross-border dimension*; or
- (d) *upon the competent national regulatory authority request, as regards the acts which, even if not falling within the scope of point (a), (b) or (c), have a cross-border dimension.*

**4a.** *The Agency shall exercise its powers to ensure that the obligations set out in Article 4 are applied where the obligation to publish is related to inside information that is likely to significantly affect the prices of wholesale energy products for delivery in at least two Member States.*

5. The Agency **shall** exercise its powers to ensure that the obligations set out in Article 15 are met where the persons are professionally arranging or executing transactions on wholesale energy products for delivery in at least **two** Member States.

- 7.** Upon completion of its actions taken to exercise its powers pursuant to *paragraphs 4, 4a and 5 of this Article*, the Agency shall draw up a report. The report shall be made public taking into account confidentiality requirements. If the Agency concludes that a breach of this Regulation took place, it shall inform the national regulatory authorities of the Member State or Member States concerned accordingly and require that the breach be dealt with in accordance with **Article 18**. The Agency **shall provide the relevant national regulatory authorities with the full report and the case file containing all incriminating and exculpatory evidence relevant to the report, and may request** certain follow-up to the relevant national regulatory authorities **including, where appropriate, a suggestion with regard to which measures could be suitable to be considered by the relevant national authorities**, and, where necessary, inform the Commission.

- 7a.** *The Agency shall, on a regular basis and in any event at least once a year, submit the reports that it has drawn up, in aggregate form, to the European*

***Parliament and to the Council.”;***

(15) The following articles ■ are inserted:

“Article 13a

On-site inspections by the Agency

1. The Agency shall prepare and conduct on-site inspections in close cooperation ***and coordination*** with the relevant authorities of the Member State concerned.
2. In order to fulfil its obligations under this Regulation, the Agency may conduct all necessary on-site inspections at any premises of the persons subject to the investigation. Where the proper conduct and efficiency of the inspection so require, the Agency may carry out that on-site inspection without prior announcement ***to the persons subject to the investigation.***
3. The officials of, and other persons authorised, by the Agency to conduct an on-site inspection may enter any premises of the persons subject to an investigation decision adopted by the Agency pursuant to paragraph 6 and shall have all the powers referred ***to*** in this Article. They shall also have the power to seal any premises, property and books or records for the period of, and to the extent necessary for the inspection.
4. In sufficient time before the inspection, the Agency shall give notice of the inspection to the national regulatory authority and other ■ authorities ***concerned*** of the Member State where the inspection is to be conducted. Inspections under this Article shall be conducted provided that the relevant authority has confirmed that it ***is not about to start an inspection, or is not in the process of carrying out an inspection at any premises of the person subject to the investigation, in which case it shall invite the Agency to join. The national authorities shall respond to the Agency’s notice as soon as possible.***
5. The officials of and other persons authorised by the Agency to conduct an on-site inspection shall exercise their powers upon production of a written authorisation specifying the subject matter and purpose of the inspection.
6. The persons referred in this Article shall submit to on-site inspections ordered by a decision that shall be adopted by the Agency. The decision shall specify the subject matter and purpose of the inspection, appoint the date on which it is to begin, the



legal remedies available under Regulation (EU) 2019/942 as well as the right to have the decision reviewed by the Court of Justice. The Agency shall consult the national regulatory authority of the Member State where the inspection is to be conducted prior to adopting such decision.

7. Officials of, as well as those authorised or appointed by, the national regulatory authority of the Member State where the inspection is to be conducted shall, at the request of the Agency, actively assist the officials of and other persons authorised by the Agency. To that end they shall enjoy the powers set out in this Article . Officials of the national regulatory authority may also attend the on-site inspection upon request.
8. Where the officials of, as well as those authorised or appointed by, the Agency find that a person opposes an inspection ordered pursuant to this Article, the national regulatory authority of the Member State concerned shall afford them, or other relevant national regulatory authorities, the necessary assistance, requesting, where appropriate, the assistance of the police or of an equivalent enforcement authority, to enable them to conduct their on-site inspection.
9. If the on-site inspection provided for in paragraph 1 or the assistance provided for in paragraphs 7 and 8 requires authorisation by a judicial authority according to applicable national law, the Agency shall also apply for such authorisation. The Agency may also apply for such authorisation as a precautionary measure.
10. Where the Agency applies for an authorisation as referred to in paragraph 9, the national judicial authority shall verify:
  - (a) that the decision of the Agency is authentic; and
  - (b) that any measures to be taken are proportionate and not arbitrary or excessive having regard to the subject matter of the inspection.

For the purposes of point (b) of the first subparagraph, the national judicial authority may ask the Agency for detailed explanations, in particular relating to the grounds the Agency has for suspecting that a breach referred to in Article 13(3) has taken place, the seriousness of the suspected breach and the nature of the involvement of the person subject to the investigation. By way of derogation from Article 28 of Regulation (EU) 2019/942, the Agency's decision shall be subject to review only by

the Court of Justice.

## Article 13b

### Request for information

1. At the Agency's request any person shall provide to it the information necessary for the purpose of fulfilling the Agency's obligations under this Regulation. In its request the Agency shall:
  - (a) refer to this Article as the legal basis for the request;
  - (b) state the purpose of the request;
  - (c) specify what information is required, and following which data format;
  - (d) set a time-limit, proportionate to the request, within which the information is to be provided;
  - (e) inform the person that the reply to the request for information shall not be incorrect or misleading.
2. For the purpose of information requests as referred to in paragraph 1, the Agency shall have the power to issue decisions. In such a decision the Agency shall, in addition to the requirements in paragraph 1 indicate the right to appeal the decision before the Agency's Board of Appeal and to have the decision reviewed by the Court of Justice in accordance with Articles 28 and 29 of Regulation (EU) 2019/942.
3. The persons referred to in paragraph 1 or their representatives shall supply the information requested. The persons shall be fully responsible that the supplied information is complete, correct and not misleading.
- 3a. *Where system operators consider that requested information under this Regulation would risk undermining the performance of their tasks, and in particular the task of efficiently balancing the system, they may object to the disclosure of that information. The system operator concerned shall provide due reasons for its objection. Upon the information provided by the system operator, the Agency shall determine whether the objection is justified.***
4. Where the officials of, as well as those authorised or appointed by, the Agency find that a person refuses to supply the information requested, the ***Agency or the*** national

regulatory authority of the Member State concerned shall afford *those officials*, or other relevant national regulatory authorities, the necessary assistance in ensuring the fulfilment of the obligation referred to in paragraph 3 *of this Article*, including through the imposition of penalties in accordance with applicable national law. *The Agency may also take one or more of the measures provided for in Article 13dc.*

5. Where the officials of, as well as those authorised or appointed by, the Agency find that a person refuses to supply the information requested, the Agency may draw conclusions on the basis of available information.
6. The Agency shall, without delay, send a copy of the request pursuant to paragraph 1 or the decision pursuant to paragraph 2 to the national regulatory authorities of the Member States *concerned*.

#### Article 13c

##### Procedural guarantees

1. The Agency shall carry out on-site inspections and request information in full respect of the procedural guarantees of market participants, including:
  - (a) the right not to make self-incriminating statements;
  - (b) the right to be assisted by a person of choice;
  - (c) the right to use any of the official languages of the Member State where the on-site inspection takes place;
  - (d) the right to comment on facts concerning them;
  - (e) the right to receive a copy of the record of interview and either approve it or add observations.
2. The Agency shall seek evidence for and against the market participant, and carry out on-site inspections and request information objectively and impartially and in accordance with the principle of the presumption of innocence.
3. The Agency shall carry out on-site inspections and request information in full respect of applicable confidentiality and Union data protection rules.

#### *Article 13ca*

##### *Power to take statements*

- 1. In order to carry out the tasks conferred upon it by this Regulation, the Agency may interview any natural or legal person who consents to be interviewed for the purpose of collecting information relating to the subject-matter of an investigation.*
- 2. Where an interview pursuant to paragraph 1 is conducted in the premises of an undertaking, the Agency shall inform the national regulatory authority of the Member State in whose territory the interview takes place. The officials of the national regulatory authority of that Member State may assist the officials and other accompanying persons authorised by the Agency to conduct the interview.*

#### Article 13d

#### Mutual assistance

**I** In order to ensure compliance with the relevant requirements set out in this Regulation, national *competent* authorities and the Agency shall assist each other *in the course of the investigations*.

#### 13da

#### *Duties of the investigating officer*

- 1. Where, in carrying out its duties under this Regulation, the Agency has reasonable grounds for suspecting the possible existence of facts liable to constitute a breach in the cases referred to in Article 13(4), (4a) and (5), the Agency shall appoint an independent investigating officer within the Agency to investigate the matter. The appointed investigating officer shall not be involved or have been involved in the direct or indirect supervision of the person concerned and shall perform his or her functions independently from the Agency.*
- 2. The investigating officer shall investigate the alleged breach, taking into account any comments submitted by the persons subject to investigation, and shall submit a complete file with his or her findings to the Agency. In order to carry out his or her tasks, the investigating officer may exercise the powers to conduct on-site inspections, request information and take statements in accordance with Articles 13a, 13b, 13c and 13ca. When carrying out his or her tasks, the investigating*

*officer shall have access to all documents and information collected by the Agency in its supervisory activities.*

3. *Upon completion of the investigation and before submitting the file with the findings, the investigating officer shall give the persons subject to the investigation the opportunity to be heard on the matters being investigated. The investigating officer shall base his or her findings only on facts on which the persons subject to investigation have had the opportunity to comment.*
4. *When submitting the file with his or her findings to the Agency, the investigating officer shall notify the persons who are subject to the investigation. The persons subject to the investigation shall be entitled to have access to the file, subject to the legitimate interest of other persons in the protection of their business secrets. The right of access to the file shall not extend to confidential information affecting third parties.*

#### **13db**

##### ***Decision making***

1. *On the basis of the file containing the investigating officer's findings and after having heard the persons subject to the investigation, the Agency shall decide if one or more breaches in the cases referred to in Article 13(4), (4a) and (5) have been committed, and in such case, shall impose one or more of the measures provided for in Article 13dc.*
2. *The investigating officer shall not participate in the Agency's deliberations or in any other way intervene in the Agency's decision-making process.*
3. *The Agency shall refer matters for criminal prosecution to the relevant national authorities where, in carrying out its tasks under this Regulation, it finds that there are serious indications of the possible existence of facts liable to constitute a criminal offence.*

#### **13dc**

##### ***Enforcement measures by the Agency***

1. *Where the Agency finds that a breach of the prohibitions and obligations referred to in Article 4a(1) to (4), Article 7c(1), Article 9a(1),(2) and (3), Article 13b(1) and*

*(3), and in accordance with Article 13(4), (4a) and (5) has been committed, it shall take one or more of the following measures:*

- (a) adopt a decision requiring the person to bring the breach to an end;*
  - (b) issue public warnings or notices; or*
  - (c) adopt a decision imposing a fine or a periodic penalty payment.*
- 2. The fines and periodic penalty payments referred to in paragraph 1 shall be effective, proportionate and dissuasive. They shall be set taking account of the gravity of the case, the activity to which the infringement pertains and the economic capacity of the legal or natural person concerned.*
- 3. Without undue delay, the Agency shall notify any measure taken pursuant to paragraph 1 to the person responsible for the breach, and shall communicate it to the national regulatory authorities concerned and to the Commission. The Agency shall also publicly disclose any such measure on its website.*
- 4. The Commission shall adopt delegated acts in accordance with Article 20 to supplement this Regulation by specifying:*
- (a) detailed criteria and a detailed methodology for establishing the amounts of the fines and periodic penalty payments;*
  - (b) procedures for the collection of the fines and periodic penalty payments.*

*The first such delegated act shall be adopted by 1 March 2024.*

#### *13dd*

##### *Rights of defence and review of the Agency's decisions*

- 1. The Agency shall base any of the measures provided for in Article 13dc only on findings on which the persons subject to the proceedings have had an opportunity to comment.*
- 2. The rights of defence of the persons subject to investigation shall be fully respected in the proceedings. They shall be entitled to have access to the file, subject to the legitimate interest of other persons in the protection of their business secrets. The right of access to the file shall not extend to confidential information or the Agency's internal preparatory documents.*

3. *The measures provided for in Article 13dc of this Regulation shall comply with Articles 28 and 29 of Regulation (EU) 2019/942.”;*

(16) Article 15 is amended as follows:

“Article 15

Obligations of persons professionally arranging or executing transactions

1. Any person professionally arranging or executing transactions in wholesale energy products who reasonably suspects that an order to trade or a transaction, including any cancellation or modification thereof, ***whether placed on or outside a trading venue***, might breach Article 3, 4 or 5 shall notify the Agency and the relevant national regulatory authority without further delay ***but no later than four weeks from the occurrence of the suspicious event***.
2. *Any person professionally executing transactions under Article 16 of Regulation (EU) No 596/2014 who also executes transactions in wholesale energy products that are not financial instruments, and who reasonably suspects that an order to trade or a transaction, including any cancellation or modification thereof, whether placed on or outside a trading venue, might breach Article 3, 4 or 5 shall notify the Agency and the relevant national regulatory authority without further delay but no later than four weeks from the occurrence of the suspicious event.*
3. *The persons referred to in paragraphs 1 and 2 shall establish and maintain effective arrangements, systems and procedures to:*
  - (a) identify ***possible*** breaches of Article 3, 4 or 5 ;
  - (b) guarantee that their employees carrying out surveillance activities for the purpose of this Article are preserved from any conflict of interest and act in an independent manner.

***(ba) prevent, detect and report suspicious orders and transactions.***
4. *Without prejudice to Article 22 of Regulation (EU) No 596/2014, persons professionally arranging or executing transactions shall be subject to the rules of notification of the Member State in which they are registered or have their head office. That notification shall be addressed to the competent authority of that Member State.*

5. *By 31 December 2023 and every year thereafter, the Agency, in cooperation with national regulatory authorities, shall issue and make public a report on the implementation of this Article, in particular with regard to:*
- (a) the supervision of the arrangements, systems and procedures to detect suspicious activity and report suspicious transactions;*
  - (b) the supervision of persons professionally arranging transactions regarding their systems and arrangements to detect suspicious activity and report suspicious transactions;*
  - (c) the response to poor quality and non-reporting of suspicious transactions and reporting as well as their related enforcement and sanctions activity;*
  - (d) the analysis of suspicious transactions and reporting;*
  - (e) the cross-border exchange of suspicious transactions and reporting;*
  - (f) resources for supervision in the framework of this Article.”;*

(17) Article 16 is amended as follows:

- (-a) in paragraph 1, the second subparagraph is replaced by the following:*

*“The Agency shall publish non-binding guidance on the application of the definitions set out in Article 2, as well as non-exhaustive indicators relating to insider trading and market manipulation set out in Articles 3 and 5 respectively, as appropriate.”;*

- (a) in paragraph 1, the fourth sub-paragraph is replaced by the following:

“National regulatory authorities, competent financial authorities, the national competition authority and the national tax authority in a Member State **shall** establish appropriate forms of cooperation in order to ensure effective and efficient investigation and enforcement and to contribute to a coherent and consistent approach to investigation, judicial proceedings and to the enforcement of this Regulation and relevant financial and competition law. ***Such forms of cooperation shall ensure that reports of possible breaches of this Regulation are handled within an appropriate timeframe to allow proper investigation.***”;

- (b) in paragraph 2, the following third subparagraph is added:



“No later than 30 days before adopting a final decision ***finding an infringement*** of this Regulation, national regulatory authorities shall inform the Agency and provide it with a summary of the case ***in a language of the Member State concerned and, to the extent possible, also in English. National regulatory authorities shall provide their final decisions to the Agency within seven days of their adoption.*** The Agency ***shall publish such decisions on its website in accordance with applicable data protection law and*** shall maintain a public list of such decisions **■**, including the date of the decision, the name of the ***natural or legal person subject to the decision,*** the ***provision*** of this Regulation that has been ***infringed*** and the ***penalty imposed.***  
**■** ”;

(ba) in paragraph 3, point (a) is replaced by the following:

***“(a) national regulatory authorities shall process reports of possible breaches of this Regulation within a maximum time of one year, and inform the competent financial authority of their Member State and the Agency where they have reasonable grounds to suspect that acts are being, or have been, carried out on wholesale energy markets which constitute market abuse within the meaning of Directive 2003/6/EC and which affect financial instruments subject to Article 9 of that Directive; for these purposes, national regulatory authorities may establish appropriate forms of cooperation with the competent financial authority in their Member State;”;***

(c) in paragraph 3, the following point (e) is added:

***“(e) the Agency and the national regulatory authorities shall inform the competent national tax authorities and EUROFISC where they have reasonable grounds to suspect that acts are being, or have been, carried out on wholesale energy market which are likely to constitute a tax fraud.”;***

(18) the following Articles 16a and 16b are inserted:

“Article 16a

Delegation of tasks and responsibilities

1. National regulatory authorities may, with the consent of the delegate ***and only if this would not result in a disproportionate administrative burden for market***

*participants*, delegate tasks and responsibilities to **the Agency or another** national regulatory **authority** subject to the conditions set out in this Article. Member States may set out specific arrangements regarding the delegation of responsibilities that **are** to be complied with before their national regulatory authorities enter into **■** delegation agreements and may limit the scope of delegation to what is necessary for the effective supervision of market participants or groups.

***The Agency may stimulate and facilitate the delegation of tasks and responsibilities between competent national regulatory authorities by identifying tasks and responsibilities that can be delegated or jointly exercised and by promoting best practices.***

***The delegation of tasks and responsibilities shall result in the reallocation of competences laid down in this Regulation. The law of the Member States where the delegate is located shall govern the procedure, enforcement and administrative and judicial review relating to the delegated responsibilities.***

2. The national regulatory authorities shall **notify** the Agency of **any** delegation agreements into which they intend to enter. They shall put the agreements into effect at the earliest one month **of** informing the Agency.
3. The Agency may **issue** an opinion on **an** intended delegation agreement **notified pursuant to paragraph 2** within one month of **receipt of the notification**.
4. The Agency shall publish, by appropriate means, any delegation agreement as concluded by the national regulatory authorities, in order to ensure that all parties concerned are informed appropriately.

#### Article 16b

##### Guidelines and recommendations

1. The Agency shall, with a view to **establishing** consistent, efficient and effective supervisory practices within the Union, and to **ensuring** the common, uniform and consistent application of Union law, issue guidelines and recommendations addressed to all national regulatory authorities or all market participants and issue recommendations to one or more national regulatory authorities or to one or more market participants on the application of Articles 3, 4, 4a, 5, 5a, 8, 9 and 9a. **The**

*national regulatory authorities and market participants are encouraged to make every efforts to comply with those guidelines and recommendations.*

2. The Agency shall, *within an adequate and realistic timeframe*, conduct *appropriate* public consultations *with all relevant market participants* regarding the guidelines and recommendations which it issues and analyse the related potential costs and benefits of issuing such guidelines and recommendations. Those consultations and analyses shall be proportionate to the scope, nature and impact of the guidelines or recommendations.

**I**

4. Within *three* months of the issuance of a guideline or recommendation *pursuant to paragraph 1*, each national regulatory authority shall confirm *to the Agency* whether it complies or intends to comply with *a specific* guideline or recommendation. If a national regulatory authority does not comply or does not intend to comply, it shall inform the Agency, *providing* reasons.
5. The Agency shall publish the information that a national regulatory authority does not comply or does not intend to comply with *the specific* guideline or recommendation. The Agency may also decide to publish the reasons provided by the national regulatory authority for *such non-compliance*. *The national regulatory authority may request the Agency not to make that information public if it could compromise the exercise of the tasks of the national regulatory authority. The Agency shall decide whether to make that information public.* The national regulatory authority *concerned* shall receive advanced notice of such publication.
6. If required by that guideline or recommendation, market participants shall *notify the Agency* whether they comply with *the specific* guideline or recommendation. *Upon the Agency's request, market participants shall substantiate such a notification in a clear and detailed manner.*
7. The Agency shall include the guidelines and recommendations that it has issued in the report referred to in Article 19(1), *point (k)*, of Regulation (EU) 2019/942.”;

(19) in Article 17, paragraph 3 is replaced by the following:

- “3. Confidential information received by the persons referred to in paragraph 2 in the

course of their duties may not be divulged to any other person or authority, except in summary or aggregate form such that an individual market participant cannot be identified, without prejudice to cases covered by criminal law, the other provisions of this Regulation or other relevant Union legislation.”;

(20) Article 18 is replaced by the following:

- “1. The Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, dissuasive and proportionate, reflecting the nature, duration and seriousness of the infringement, the damage caused to consumers and the potential gains from trading on the basis of inside information and market manipulation.

Without prejudice to any criminal sanctions and supervisory powers of national regulatory authorities under Article 13, Member States shall, in accordance with national law, provide for national regulatory authorities to have the power to adopt appropriate administrative sanctions and other administrative measures in relation to the breaches of this Regulation referred to in Article 13(1).

The Member States shall notify, in detail, those provisions to the Commission and to the Agency and shall notify it without delay of any subsequent amendment affecting them.

***By 1 June 2025 the Commission shall assess the effectiveness of introducing criminal penalties by Member States for intentional and serious cases of market abuse in the Union wholesale energy markets and shall submit a report to the European Parliament and to the Council. Where appropriate, the assessment shall be followed up by a legislative proposal.***

2. Member States shall, in accordance with national law, and the ne bis in idem principle, ensure that the national regulatory authorities have the power to impose at least the following administrative sanctions and administrative measures relating to breaches of the provisions of this Regulation:

- (a) adopt a decision requiring the person to bring the breach to an end;

- (b) the disgorgement of the profits gained or losses avoided due to the breaches insofar as they can be determined;
- (c) issue public warnings or notices;
- (d) adopt a decision imposing periodic penalty payments;
- (e) adopt a decision imposing administrative pecuniary sanctions;

in respect of legal persons, maximum administrative pecuniary sanctions of at least:

- i. for breaches of Articles 3 and 5, 15% of the total turnover in the preceding business year;
- ii. for breaches of Article 4 and 15, 2% of the total turnover in the preceding business year;
- iii. for breaches of Article 8 and 9, 1% of the total turnover in the preceding business year.

in respect of natural persons, maximum administrative pecuniary sanctions of at least:

- i. for breaches of Articles 3 and 5, EUR 5 000 000;
- ii. for breaches of Article 4 and 15, EUR 1 000 000;
- iii. for breaches of Article 8 and 9, EUR 500 000.

Notwithstanding paragraphs (e), the amount of the fine shall not exceed 20 % of the annual turnover of the legal person concerned in the preceding business year. In the case of natural persons, the amount of the fine shall not exceed 20 % of the yearly income in the preceding calendar year. Where the person has directly or indirectly benefited financially from the breach, the amount of the fine shall be at least equal to that benefit.

- 3. Member States shall ensure that the national regulatory authority may disclose to the public measures or penalties imposed for infringement of this Regulation unless such disclosure would cause disproportionate damage to the parties involved.

**3a. *By ... [three years after the date of entry into force of this amending Regulation] and every three years thereafter, the Commission shall submit a report to the European Parliament and to the Council, assessing whether penalties for breaches***

*of Union rules are provided for and applied consistently across the Member States.”;*

**(20a)** *Article 20 is amended as follows:*

**(a)** *paragraphs 2 and 3 are replaced by the following:*

**“2. The power to adopt delegated acts referred to in Article 4a(6), Article 6(1), Article 7a(1b), Article 7c(2), Article 9a(5) and Article 13dc(4) shall be conferred on the Commission for a period of 5 years from 28 December 2011. The Commission shall draw up a report in respect of the delegation of power not later than 9 months before the end of the 5-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than 3 months before the end of each period.”**

**3. The delegation of power referred to in Article 4a(6), Article 6(1), Article 7a(1b), Article 7c(2), Article 9a(5) and Article 13dc(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.”**

**(b)** *paragraph 5 is replaced by the following:*

**“5. A delegated act adopted pursuant to Article 4a(6), Article 6(1), Article 7a(1b), Article 7c(2), Article 9a(5) or Article 13dc(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.”;**

**(20b)** *the following article is inserted:*

**“Article 21a**

## ***Report and review***

***By 1 June 2027, and every five years thereafter, the Commission, in consultation with relevant stakeholders, shall assess the application of this Regulation, in particular as regards its impact on market behaviour, market participants, liquidity, reporting requirements, including on LNG market data and the level of administrative burden for market participants, including the potential barriers to entry for new market participants, as well as the Agency's performance in relation to its objectives, mandate and tasks. On the basis of those assessments, the Commission shall draw up a report and submit it without undue delay to the European Parliament and to the Council. The report shall be accompanied, where appropriate, by a legislative proposal. ”.***

## **Article 2**

### **Amendments to Regulation (EU) 2019/942**

Regulation (EU) 2019/942 is amended as follows:

- (1) in Article 6, paragraph 8 is deleted.
- (2) in Article 12, point (c) is replaced by the following:
  - (c) Pursue and coordinate investigations pursuant to Articles 13, 13a, 13b and Article 16 of Regulation (EU) No 1227/2011.
- (2a) in Article 12, the following point is added:***
  - “(d) have the power to impose periodic penalty payments and fines for breaches referred to in Article 4a(1) to (4), Article 7c(1), Article 9a(1), (2) and (3), Article 13b(1) and (3), and, in accordance with Article 13(4), (4a) or (5) of Regulation (EU) No 1227/2011. ”;***
- (3) in Article 32, paragraph 1 is replaced by the following:
  - “1. Fees shall be due to ACER for collecting, handling, processing and analysing of information reported by market participants or by entities reporting on their behalf pursuant to Article 8 of Regulation (EU) No 1227/2011 and for disclosing inside information pursuant to Articles 4 and 4a of Regulation (EU) No 1227/2011. The fees shall be paid by registered reporting mechanisms and inside information platforms. Revenues from those fees may also cover the

costs of ACER for exercising the supervision and investigation powers pursuant to Articles 13, 13a, 13b and Article 16 Regulation (EU) No 1227/2011.”.

■

#### Article 4

##### Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ■ ,

*For the European Parliament*

*For the Council*

*The President*

*The President*



## EXPLANATORY STATEMENT

The energy crisis, considerably worsened by Russia's invasion of Ukraine, led the European Commission to propose, on 14 March 2023, a reform of the Electricity Market Design. As part of this reform, several key pieces of EU legislation are being revised, notably the Regulation on Wholesale Energy Market Integrity and Transparency (REMIT).

This Regulation, which entered into force in 2011, aims to prevent and fight malpractices such as insider trading and market manipulation, thus contributing to ensure the transparency, competitiveness and stability of the EU Energy markets. In the present revision proposal, the Commission envisions a reinforcement of the Agency for the Cooperation of Energy Regulators (ACER) and national regulators' ability to monitor energy market integrity and transparency. The revision also seeks to enable access to better data, as a part of the effort to strengthen the capabilities of these regulators.

Whilst welcoming the European Commission's initiative, and fully supporting its main principles and lines of action, the Rapporteur considers that further efforts are necessary in order to ensure that the announced goals are achieved. Notably, a reinforcement of ACER's role in investigations of potential market abuse cases of cross-border nature, and a clearer set of rules for all market participants, for their own protection and to prevent the exploitation of legal loopholes and contradictions.

Therefore, amendments are introduced with three main principles as guidelines: **Legal Coherence and Transparency**, a **Strengthened European Dimension** and a **Reinforced Market**. To each of these principles corresponds a specific set of actions. Legal Coherence and Transparency shall be enabled by more clarity in the Regulation and a better alignment with other pieces of EU legislation. A Strengthened European Dimension is pursued through the reinforced scope of ACER's actions and its cooperation with national regulators. Finally, measures aimed at removing red tape, unnecessary barriers and redundant reporting contribute to a Reinforced Market.

Examples of specific actions/amendments include:

### **Legal coherence and transparency**

- Better aligning the definitions to the specificities of the energy markets to avoid confusion, overlaps and excessive administrative burden, providing more clarity and setting the ground for an effective implementation of the rules (i.e. definition of 'Organised Market Place', 'Order Books', and 'Inside Information');
- Inclusion of all relevant actors in the definition of 'market participant', while avoiding putting excessive burden on smaller players in the case of persons professionally arranging transactions, with little benefit;
- Better framing the roles of Inside Information Platforms and Registered Reporting Mechanisms, but streamlining language and procedures, while giving market participants more time to adapt to the new rules;
- Adequate integration of the LNG-related articles, imported from the Council

Regulation on Enhanced Solidarity Through Better Coordination of Gas Purchases, Reliable Price Benchmarks and Exchanges of Gas Across Borders, into REMIT, in order to provide more clarity and avoid repetition of tasks and reporting exercises;

### **Strengthened European Dimension**

- Reinforcing ACER's powers, namely by modifying the criteria for identifying cross-border cases that can be investigated by ACER and enhancing its investigative capabilities;
- Enhancing the exchange of information between energy and financial authorities, making sure that monitoring is effective and does not overlap;
- Keeping a balance between ACER's responsibilities and National Regulatory Authorities' roles, especially when the latter can perform the concerned activities; where they cannot, ACER should play a part. The Rapporteur decided to respect the NRA's primary role in the enforcement phase;
- Supporting the European Commission's proposal to reinforce ACER's task to produce guidelines and recommendations, while preventing the superfluous administrative burden that these might entail for market participants;

### **Reinforced market**

- Avoiding excessive administrative work and reduce red tape for market participants;
- Making sure adequate access to the markets is granted also for third country players;
- Making sure that investments are safeguarded, by ensuring that information regarding the investments process shall be disclosed only when it is certain that the concerned data might influence the market.

On a final note, the Rapporteur would like to remind that the present revision was put forward by the European Commission with a considerable degree of urgency, and that, for this reason, its impact should be monitored with particular care. Therefore, an amendment was introduced calling on the European Commission to conduct an assessment of the Regulation, no later than by June 2027, paying special attention to impacts on market behaviour, market participants, liquidity, reporting requirements and the level of administrative burden for market participants.

## ANNEX: LIST OF ENTITIES OR PERSONS FROM WHOM THE RAPPOREUR HAS RECEIVED INPUT

The following list is drawn up on a purely voluntary basis under the exclusive responsibility of the rapporteur. The rapporteur has received input from the following entities or persons in the preparation of the draft report:

Entity and/or person
ACER - Agency for the Cooperation of Energy Regulators
European Commission - DG ENER
ENTSO-E - European Network of Transmission System Operators for Electricity
CEER - Council of European Energy Regulators
Eurelectric - Federation of the European electricity industry
ICE - Intercontinental Exchange
EDF - Électricité de France
EFET - European Federation of Energy Traders
Europex - Association of European Energy Exchanges
RWE AG
Lightsource BP
EGEC - The European Geothermal Energy Council
Form Energy
Eurofer AISBL - The European Steel Association
STEAG Power GmbH
AFEP - Association française des entreprises privées
SolarPower Europe
Endesa Energia
ENEL S.p.A.
EDP - Energias de Portugal
ENI S.p.A.
ENGIE
UFE - Union Française de l'Electricité
REN - Redes Energéticas Nacionais, SGPS, SA
Energienet
GME - Gestore dei Mercati Energetici SpA
Terna - Rete Elettrica Nazionale S.p.A
Nordpool AS
Vattenfall
European Energy Exchange AG
Edison Spa
Nordenergi

29.6.2023

## **OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS**

for the Committee on Industry, Research and Energy

on the proposal for a regulation of the European Parliament and of the Council amending Regulations (EU) No 1227/2011 and (EU) 2019/942 to improve the Union's protection against market manipulation in the wholesale energy market

(COM(2023)0147 – C9-0050/2023 – 2023/0076(COD))

Rapporteur for opinion: Ondřej Kovařík



## AMENDMENTS

The Committee on Economic and Monetary Affairs calls on the Committee on Industry, Research and Energy, as the committee responsible, to take the following into account:

### Amendment 1

#### Proposal for a regulation Recital 2

##### *Text proposed by the Commission*

(2) Financial instruments, including energy derivatives, traded on energy markets are of increasing importance. Due to the increasingly close interrelation between financial markets and energy wholesale markets, Regulation (EU) No 1227/2011 should be better aligned with the financial market legislation such as Regulation (EU) No 596/2014 of the European Parliament and of the Council<sup>17</sup>, including with respect to the definitions of market manipulation and inside information respectively. More specifically the definition of market manipulation in Regulation (EU) No 1227/2011 should be slightly adjusted to mirror Article 12 of Regulation (EU) No 596/2014. To that end, the definition of market manipulation under Regulation (EU) No 1227/2011 should be adjusted to capture the entering into any transaction, or issuing any order to trade, but also 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

##### *Amendment*

(2) ***Those wholesale energy products that are*** financial instruments, including energy derivatives, traded on energy markets are of increasing importance. Due to the increasingly close interrelation between financial markets and energy wholesale markets, Regulation (EU) No 1227/2011 should be better aligned with the financial market legislation such as Regulation (EU) No 596/2014 of the European Parliament and of the Council<sup>17</sup>, including with respect to the definitions of market manipulation and inside information respectively. ***Alignment between this Regulation and financial markets legislation should ensure that national regulatory authorities, supervising energy markets, and competent financial authorities, supervising financial markets, can apply relevant legislation by taking into account the specificities of the energy markets.*** More specifically the definition of market manipulation in Regulation (EU) No 1227/2011 should be slightly adjusted to mirror Article 12 of Regulation (EU) No 596/2014. To that end, the definition of market manipulation under Regulation (EU) No 1227/2011 should be adjusted to capture the entering into any transaction, or issuing any order to trade, but also 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

products.

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. ***However, the scope of this Regulation should not overlap with sectoral financial markets regulation. Therefore, financial instruments as defined in Directive 2014/65/EU of the European Parliament and of the Council<sup>17a</sup>, should be carved out from the scope.***

---

<sup>17</sup> Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1).

---

<sup>17</sup> Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1).

<sup>17a</sup> ***Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).***

## Amendment 2

### Proposal for a regulation

#### Recital 3

*Text proposed by the Commission*

(3) The definition of inside information should also be ***adjusted to mirror*** Regulation (EU) 596/2014. In particular, where inside information concerns a process which occurs in stages, each stage of the process as well as the overall process

*Amendment*

(3) The definition of inside information should also be ***aligned with*** Regulation (EU) 596/2014. In particular, where inside information concerns a process which occurs in stages, each stage of the process as well as the overall process could

could constitute inside information. An intermediate step in a protracted process may in itself constitute a set of circumstances or an event which exists or where there is a realistic prospect that they will come into existence or occur, on the basis of an overall assessment of the factors existing at the relevant time. However, that notion should not be interpreted as meaning that the magnitude of the effect of that set of circumstances or that event on the prices of the financial instruments concerned must be taken into consideration. An intermediate step should be deemed to be inside information if it, by itself, meets the criteria laid down in this Regulation for inside information.

constitute inside information. An intermediate step in a protracted process may in itself constitute a set of circumstances or an event which exists or where there is a realistic prospect that they will come into existence or occur, on the basis of an overall assessment of the factors existing at the relevant time. However, that notion should not be interpreted as meaning that the magnitude of the effect of that set of circumstances or that event on the prices of the financial instruments concerned must be taken into consideration. An intermediate step should be deemed to be inside information if it, by itself, meets the criteria laid down in this Regulation for inside information.

### Amendment 3

#### Proposal for a regulation Recital 5

##### *Text proposed by the Commission*

(5) Sharing of information between national regulatory authorities and the national competent financial authorities is a central aspect of cooperation and detection of potential breaches in both the wholesale energy markets and the financial markets. In the light of the exchange of information between competent authorities pursuant to Regulation (EU) 596/2014 at national level, national regulatory authorities should share relevant information they receive with national financial and competition authorities.

##### *Amendment*

(5) Sharing of information between national regulatory authorities and the national competent financial authorities is a central aspect of cooperation and detection of potential breaches in both the wholesale energy markets and the financial markets. In the light of the exchange of information between competent authorities pursuant to Regulation (EU) 596/2014 at national level, national regulatory authorities should share relevant information they receive with national financial and competition authorities, ***as well as with the European Agency for the Cooperation of Energy Regulators (ACER) and ESMA.***

### Amendment 4

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



*Text proposed by the Commission*

*Amendment*

**(5 a) ACER and ESMA should closely coordinate in their supervisory activities, including, but not limited to, on issues arising from the adoption of this Regulation, in order to ensure that the most complete data sets are available to and that action can be taken as needed by the European or national regulatory authorities or competent financial authorities, as applicable. ACER and ESMA should particularly explore arrangements in order to ensure that the flow of information between them and national regulatory authorities and competent financial authorities is unobstructed, and that they can have, at all times, an overview of the energy markets in the Union.**

## **Amendment 5**

### **Proposal for a regulation Recital 8**

*Text proposed by the Commission*

*Amendment*

(8) The use of trading technology has evolved significantly in the past decade and is increasingly used on the wholesale energy markets. Many market participants use algorithmic trading and high frequency algorithmic techniques with minimal or no human intervention. The risks arising from these practises should be addressed under Regulation (EU) No 1227/2011.

(8) The use of trading technology has evolved significantly in the past decade and is increasingly used on the wholesale energy markets. Many market participants use algorithmic trading and high frequency algorithmic techniques with minimal or no human intervention. The risks arising from these practises should be **clearly** addressed under Regulation (EU) No 1227/2011.

## **Amendment 6**

### **Proposal for a regulation Recital 13**

*Text proposed by the Commission*

*Amendment*

(13) In order to facilitate monitoring to

(13) In order to facilitate monitoring to

detect potential trading based on inside information and data quality of collected information, the collection of inside information needs to be aligned with the current processes for trade data reporting.

detect potential trading based on inside information and data quality of collected information, the collection of inside information needs to be aligned with the current processes for trade data reporting ***while ensuring that reporting overlaps arising from obligations under other pieces of linked legislation, such as financial services legislation are minimised.***

#### *Justification*

*While data collection is imperative, we also need to facilitate reporting standards horizontally in EU legislation to avoid duplicative reporting from market participants*

### **Amendment 7**

#### **Proposal for a regulation Recital 22**

##### *Text proposed by the Commission*

(22) The Agency should be empowered to carry out investigations by conducting on-site inspections and by issuing requests for information to the persons under investigations, in particular where the suspected breaches of Regulation (EU) No 1227/2011 have a clear cross-border dimension. In undertaking the on-site inspections and in issuing requests for information to the persons under investigations, the Agency should closely and actively cooperate with the relevant national regulatory authorities, which in turn should provide the Agency with full assistance, including where a person refuses to be subject to the inspection or to provide the requested information. It is important that the procedural guarantees and fundamental rights of the persons concerned of the persons subject to the Agency's investigations are fully respected. The confidentiality of the information submitted by the persons subject to the investigation should be

##### *Amendment*

(22) The Agency should be empowered to carry out investigations by conducting on-site inspections and by issuing requests for information to the persons under investigations, in particular where the suspected breaches of Regulation (EU) No 1227/2011 have a clear cross-border dimension. In undertaking the on-site inspections and in issuing requests for information to the persons under investigations, the Agency should closely and actively cooperate with the relevant national regulatory authorities, which in turn should provide the Agency with full assistance, including where a person refuses to be subject to the inspection or to provide the requested information. ***Where it deems this necessary, the Agency should also closely cooperate with ESMA with regard to on-site inspections.*** It is important that the procedural guarantees and fundamental rights of the persons concerned of the persons subject to the Agency's investigations are fully

safeguarded exchanged in accordance with applicable Union data protection rules.

respected. The confidentiality of the information submitted by the persons subject to the investigation should be safeguarded exchanged in accordance with applicable Union data protection rules.

## Amendment 8

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 1 – point a

Regulations (EU) No 1227/2011 and (EU) 2019/942

Article 1 – paragraph 2

#### *Text proposed by the Commission*

2. This Regulation applies to trading in wholesale energy products. This Regulation is without prejudice to the application of Directive (EU) 2014/65, Regulation (EU) **600/2014** and Regulation (EU) 648/2012 as regards activities involving financial instruments ***as defined under Article 4(1)(15) of Directive (EU) 2014/65*** as well as to the application of European competition law to the practices covered by this Regulation.

#### *Amendment*

2. This Regulation applies to trading in wholesale energy products. ***Articles 3, 5, 5a and Article 9(1), second subparagraph, of this Regulation shall not apply to wholesale energy products which are financial instruments as defined in Article 4(1), point (15), of Directive (EU) 2014/65 and to which Article 2 of Regulation (EU) No 596/2014 applies.*** This Regulation is without prejudice to the application of Directive (EU) 2014/65, Regulation (EU) ***No 600/2014, Regulation (EU) No 596/2014*** and Regulation (EU) 648/2012 as regards activities involving financial instruments as well as to the application of European competition law to the practices covered by this Regulation .

## Amendment 9

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 1 – point b

Regulations (EU) No 1227/2011 and (EU) 2019/942

Article 1 – paragraph 3 – subparagraph 2

#### *Text proposed by the Commission*

The Agency, national regulatory authorities, ESMA and competent financial authorities of the Member States shall ***in particular*** exchange relevant information

#### *Amendment*

The Agency, national regulatory authorities, ESMA and competent financial authorities of the Member States shall exchange relevant information and data on

and data on a regular, ***at least quarterly***, basis regarding potential breaches of Regulation (EU) No 596/2014 of the European Parliament and of the Council involving wholesale energy products covered by this Regulation.

a regular basis regarding potential breaches of Regulation (EU) No 596/2014 of the European Parliament and of the Council involving wholesale energy products covered by this Regulation.

## **Amendment 10**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 2 – point c**

Regulations (EU) No 1227/2011 and (EU) 2019/942

Article 2 – point 2 – point a – introductory part

#### *Text proposed by the Commission*

(a) entering into any transaction, ***issuing*** any order to trade or engaging in any other behaviour relating to wholesale energy products which:

#### *Amendment*

(a) entering into any transaction ***or placing*** any order to trade or engaging in any other behaviour relating to wholesale energy products which:

## **Amendment 11**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 2 – point c**

Regulations (EU) No 1227/2011 and (EU) 2019/942

Article 2 – point 2 – point a – point i

#### *Text proposed by the Commission*

(i) gives, or is likely to give, false or misleading signals as to the supply of, demand for, or price of wholesale energy products;

#### *Amendment*

(i) gives, or is likely to give, false or misleading signals as to the supply of, demand for, or price of wholesale energy products; ***or***

## **Amendment 12**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 2 – point c**

Regulations (EU) No 1227/2011 and (EU) 2019/942

Article 2 – point 2 – point a – point ii– subparagraph 1

#### *Text proposed by the Commission*

(ii) secures, or is likely to secure , by a

#### *Amendment*

(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

person, or persons acting in collaboration,  
the price of one or several wholesale  
energy products at an artificial level

### Amendment 13

#### Proposal for a regulation

##### Article 1 – paragraph 1 – point 2 – point c

Regulations (EU) No 1227/2011 and (EU) 2019/942

Article 2 – point 2 – point a – point ii – subparagraph 2

#### *Text proposed by the Commission*

unless the **person** who entered into the transaction or **issued** the order to trade establishes that **his** reasons for doing so are legitimate and that that transaction or order to trade conforms to accepted market practices on the wholesale energy market concerned; or

#### *Amendment*

unless the **persons** who entered into the transaction or **placed** the order to trade establishes that **their** reasons for doing so are legitimate and that that transaction or order to trade conforms to accepted market practices on the wholesale energy market concerned; or

### Amendment 14

#### Proposal for a regulation

##### Article 1 – paragraph 1 – point 2 – point g

Regulations (EU) No 1227/2011 and (EU) 2019/942

Article 2 – point 7

#### *Text proposed by the Commission*

(7) ‘market participant’ means any person, including transmission system operators and **persons professionally arranging or executing transactions when trading on their own account, who enters** into transactions, including the placing of orders to trade, in one or more wholesale energy markets; ”;

#### *Amendment*

(7) ‘market participant’ means any person, including transmission system operators and **distribution system operators, storage system operators and LNG system operators, who enter** into transactions, including the placing of orders to trade, in one or more wholesale energy markets; ”;

### Amendment 15

#### Proposal for a regulation

##### Article 1 – paragraph 1 – point 2 – point h

Regulations (EU) No 1227/2011 and (EU) 2019/942

Article 2 – point 8

*Text proposed by the Commission*

(8a) 'person professionally arranging **or executing** transactions' means a person professionally engaged in the reception and transmission of orders for, or in the **execution** of transactions in, wholesale energy products;”;

*Amendment*

(8a) 'person professionally arranging transactions' means a person professionally engaged in the reception and transmission of orders for, or in the **arrangement** of transactions in, wholesale energy products **that are not financial instruments**;”;

**Amendment 16**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 2 – point j**

Regulations (EU) No 1227/2011 and (EU) 2019/942

Article 2 – point 17

*Text proposed by the Commission*

(17) ‘inside information platform’ or ‘IIP’ means a person registered under this Regulation to provide the service of operating a platform for the disclosure of inside information and for the reporting of disclosed inside information to the Agency **on behalf of market participants**.

*Amendment*

(17) ‘inside information platform’ or ‘IIP’ means a person registered under this Regulation to provide the service of operating a platform for the disclosure of inside information and for the reporting of disclosed inside information to the Agency.

**Amendment 17**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 2 – point j**

Regulations (EU) No 1227/2011 and (EU) 2019/942

Article 2 – point 18 a (new)

*Text proposed by the Commission*

*Amendment*

**(18 a) “over the counter (OTC) wholesale energy contract” means a wholesale energy contract the execution of which takes place bilaterally between market participants or via a broker and not on an energy exchange;**

**Amendment 18**

## Proposal for a regulation

### Article 1 – paragraph 1 – point 2 – point j

Regulations (EU) No 1227/2011 and (EU) 2019/942

Article 2 – point 20

#### *Text proposed by the Commission*

(20) ‘organised market place’ (‘OMP’) means an energy exchange, an energy broker, an energy capacity platform or any other person professionally arranging or executing transactions, including shared order book providers but excluding purely bilateral trading where two natural persons enter into each trade on their own account.

#### *Amendment*

(20) ‘organised market place’ (‘OMP’) means an energy exchange, an energy broker, an energy capacity platform or any other person professionally arranging or executing transactions, including shared order book providers but excluding **trading venues as defined in Article 4(1), point (24), of Directive 2014/65/EU and** purely bilateral trading where two natural persons enter into each trade on their own account;

## Amendment 19

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 2 – point j

Regulations (EU) No 1227/2011 and (EU) 2019/942

Article 2 – point 21

#### *Text proposed by the Commission*

(21) ‘LNG trading’ means **bids, offers or** transactions **for** the purchase or sale of LNG: (a) that specify delivery in the Union; (b) that result in delivery in the Union; or (c) in which one counterparty re-gasifies the LNG at a terminal in the Union.

#### *Amendment*

(21) ‘LNG trading’ means **entering into any transactions, including orders to trade on an organised market place, relating to** the purchase or sale of LNG: (a) that specify delivery in the Union; (b) that result in delivery in the Union; or (c) in which one counterparty re-gasifies the LNG at a terminal in the Union;

## Amendment 20

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 2 – point j

Regulations (EU) No 1227/2011 and (EU) 2019/942

Article 2 – point 24 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

**(24 a) benchmark’ means any index that**

*is not a benchmark as defined in Article 3(1), point (29), of Regulation (EU) 596/2014 and that is periodically or regularly determined by the application of a formula to, or on the basis of, the underlying wholesale energy products, including estimated prices, by reference to which the amount payable under a wholesale energy product or a contract relating to a wholesale energy product, or the value of a wholesale energy product, is determined, whereas that wholesale energy product is not a financial instrument;*

## Amendment 21

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 2 – point j

Regulations (EU) No 1227/2011 and (EU) 2019/942

Article 2 – point 25

*Text proposed by the Commission*

(25) ‘LNG benchmark’ means *the determination of a spread between the daily LNG price assessment and the settlement price for the TTF Gas Futures front-month contract established by ICE Endex Markets B.V. on a daily basis;*

*Amendment*

(25) ‘LNG benchmark’ means *a benchmark with regard to LNG trading.*

## Amendment 22

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 3

Regulations (EU) No 1227/2011 and (EU) 2019/942

Article 3 – paragraph 1 – subparagraph 2

*Text proposed by the Commission*

The use of inside information by cancelling or amending *an* order concerning a wholesale energy product to which the information relates, where the order was placed before the person concerned possessed the inside information, shall also

*Amendment*

The use of inside information by cancelling *orders* or amending *or modifying an existing* order, *the establishment of links or dependencies between orders*, concerning a wholesale energy product to which the information relates, where the



be considered to be insider trading.;

order was placed before the person concerned possessed the inside information, shall also be considered to be insider trading.

## Amendment 23

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 6

Regulations (EU) No 1227/2011 and (EU) 2019/942

Article 5a – paragraph 1

#### *Text proposed by the Commission*

1. A market participant that engages in algorithmic trading shall have in place effective systems and risk controls suitable to the business it operates to ensure that its trading systems are resilient and have sufficient capacity, are subject to appropriate trading thresholds and limits and prevent the sending of erroneous orders to trade or the systems otherwise functioning in a way that may create or contribute to a disorderly market. The market participant shall also have in place effective systems and risk controls to ensure that the trading systems comply with this Regulation and with the rules of an organised market place to which it is connected. The market participant shall have in place effective business continuity arrangements to deal with any failure of its trading systems and shall ensure its systems are fully tested and properly monitored to ensure that they meet the requirements laid down in this paragraph.

#### *Amendment*

1. A market participant that engages in algorithmic trading shall have in place effective systems and risk controls suitable to the business it operates to ensure that its trading systems are resilient and have sufficient capacity, are subject to appropriate trading thresholds and limits and prevent the sending of erroneous orders to trade or the systems otherwise functioning in a way that may create or contribute to a disorderly market ***or excessive market volatility***. The market participant shall also have in place effective systems and risk controls to ensure that the trading systems comply with this Regulation and with the rules of an organised market place to which it is connected. The market participant shall have in place effective business continuity arrangements to deal with any failure of its trading systems and shall ensure its systems are fully tested and properly monitored ***by one or more designated persons on a regular basis*** to ensure that they meet the requirements laid down in this paragraph.

## Amendment 24

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 6

*Text proposed by the Commission*

The market participant shall arrange for records to be kept in relation to the points referred to in this paragraph and shall ensure that those records are sufficient to enable its national regulatory authority to monitor compliance with this Regulation.

*Amendment*

The market participant shall arrange for records to be kept in relation to the points referred to in this paragraph ***for a period of five years***, and shall ensure that those records are sufficient to enable its national regulatory authority to monitor compliance with this Regulation.

**Amendment 25**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 6**

Regulations (EU) No 1227/2011 and (EU) 2019/942  
Article 5a – paragraph 3 – subparagraph 3

*Text proposed by the Commission*

The market participant shall arrange for records to be kept in relation to the matters referred to in this paragraph and shall ensure that those records be sufficient to enable its national regulatory authority to monitor compliance with this Regulation.

*Amendment*

The market participant shall arrange for records to be kept in relation to the matters referred to in this paragraph ***for a period of five years*** and shall ensure that those records be sufficient to enable its national regulatory authority to monitor compliance with this Regulation.

**Amendment 26**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 15**

Regulations (EU) No 1227/2011 and (EU) 2019/942  
Article 13a – paragraph 1

*Text proposed by the Commission*

1. The Agency shall prepare and conduct on-site inspections in close cooperation with the relevant authorities of the Member State concerned.

*Amendment*

1. The Agency shall prepare and conduct on-site inspections in close cooperation with the relevant authorities of the Member State concerned ***and, where it deems it necessary, with ESMA.***

**Amendment 27**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 15**

Regulations (EU) No 1227/2011 and (EU) 2019/942

Article 13a – paragraph 4

*Text proposed by the Commission*

4. In sufficient time before the inspection, the Agency shall give notice of the inspection to the national regulatory authority and other concerned authorities of the Member State where the inspection is to be conducted. ***Inspections under this Article shall be conducted provided that the relevant authority has confirmed that it does not object to those inspections.***

*Amendment*

4. In sufficient time before the inspection, the Agency shall give notice of the inspection to the national regulatory authority and other concerned authorities of the Member State where the inspection is to be conducted.

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Amending Regulations (EU) No 1227/2011 and (EU) 2019/942 to improve the Union's protection against market manipulation in the wholesale energy market						
<b>References</b>	COM(2023)0147 – C9-0050/2023 – 2023/0076(COD)						
<b>Committee responsible</b> Date announced in plenary	ITRE 29.3.2023						
<b>Opinion by</b> Date announced in plenary	ECON 29.3.2023						
<b>Rapporteur for the opinion</b> Date appointed	Ondřej Kovařík 20.4.2023						
<b>Date adopted</b>	28.6.2023						
<b>Result of final vote</b>	<table> <tr> <td>+: </td><td>42</td></tr> <tr> <td>–: </td><td>10</td></tr> <tr> <td>0: </td><td>1</td></tr> </table>	+:	42	–:	10	0:	1
+:	42						
–:	10						
0:	1						
<b>Members present for the final vote</b>	Rasmus Andresen, Anna-Michelle Asimakopoulou, Isabel Benjumea Benjumea, Stefan Berger, Engin Eroglu, Markus Ferber, Jonás Fernández, Valentino Grant, Claude Gruffat, José Gusmão, Michiel Hoogeveen, Danuta Maria Hübner, Stasys Jakeliūnas, France Jamet, Billy Kelleher, Ondřej Kovařík, Georgios Kyrtos, Aurore Lalucq, Philippe Lamberts, Aušra Maldeikienė, Csaba Molnár, Denis Nesci, Luděk Niedermayer, Lefteris Nikolaou-Alavanos, Lídia Pereira, Kira Marie Peter-Hansen, Eva Maria Poptcheva, Antonio Maria Rinaldi, Dorien Rookmaker, Alfred Sant, Joachim Schuster, Ralf Seekatz, Inese Vaidere, Johan Van Overtveldt, Stéphanie Yon-Courtin						
<b>Substitutes present for the final vote</b>	Damien Carême, Niels Fuglsang, Henrike Hahn, Valérie Hayer, Martin Hlaváček, Eugen Jurzyca, Janusz Lewandowski, Chris MacManus, Tonino Picula, Jessica Polfjärd, René Repasi, Eleni Stavrou						
<b>Substitutes under Rule 209(7) present for the final vote</b>	Vladimír Bilčík, Marco Campomenosi, Hannes Heide, Leszek Miller, Patrizia Toia, Juan Ignacio Zoido Álvarez						

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

42	+
ECR	Michiel Hoogeveen, Eugen Jurzyca, Denis Nesci, Johan Van Overtveldt
ID	Marco Campomenosi, Valentino Grant, France Jamet, Antonio Maria Rinaldi
PPE	Anna-Michelle Asimakopoulou, Isabel Benjumea Benjumea, Stefan Berger, Vladimír Bilčík, Markus Ferber, Danuta Maria Hübner, Janusz Lewandowski, Aušra Maldeikienė, Luděk Niedermayer, Lídia Pereira, Jessica Polfjård, Ralf Seekatz, Eleni Stavrou, Inese Vaidere, Juan Ignacio Zoido Álvarez
Renew	Engin Eroglu, Valérie Hayer, Martin Hlaváček, Billy Kelleher, Ondřej Kovařík, Georgios Kyrtos, Eva Maria Poptcheva, Stéphanie Yon-Courtin
S&D	Jonás Fernández, Niels Fuglsang, Hannes Heide, Aurore Lalucq, Leszek Miller, Csaba Molnár, Tonino Picula, René Repasi, Alfred Sant, Joachim Schuster, Patrizia Toia

10	-
NI	Lefteris Nikolaou-Alavanos
The Left	José Gusmão, Chris MacManus
Verts/ALE	Rasmus Andresen, Damien Carême, Claude Gruffat, Henrike Hahn, Stasys Jakeliūnas, Philippe Lamberts, Kira Marie Peter-Hansen

1	0
ECR	Dorien Rookmaker

Key to symbols:

+ : in favour

- : against

0 : abstention

8.6.2023

## LETTER OF THE COMMITTEE ON BUDGETS

Mr Cristian Buşoi  
Chair  
Committee on Industry, Research and Energy  
BRUSSELS

Subject: Opinion on the Commission proposal on amending Regulations (EU) No 1227/2011 and (EU) 2019/942 to improve the Union's protection against market manipulation in the wholesale energy market (2023/0076 (COD)) and amending Regulations (EU) 2019/943 and (EU) 2019/942 as well as Directives (EU) 2018/2001 and (EU) 2019/944 to improve the Union's electricity market design (2023/0077(COD))

Dear Mr Chair,

Under the procedure referred to above, the Committee on Budgets' Coordinators decided at their meeting of 31 January 2023 to adopt an opinion under the Rule 56plus in the form of a letter covering both legislative files.

The committee adopted the opinion at its meeting<sup>1</sup> on 08/06/2023 and mandated me to convey the position set out below.

### **Background to the proposal related to the budgetary impact on the European Union Agency for the Cooperation of Energy Regulators (ACER) and ITER**

On 14 March 2023, the Commission proposed to reform the EU's electricity market design to accelerate a surge in renewables and the phase-out of gas, make consumer bills less dependent on volatile fossil fuel prices, better protect consumers from future price spikes and potential market manipulation, and make the EU's industry clean and more competitive.

This translated into two proposal amending several existing pieces of legislation:

1. Amendment of the REMIT (Union's protection of against market manipulation in the wholesale energy market) and the corresponding amendment of the ACER Regulation.
2. Amendments of the EMD (Electricity market design) Regulation and Directive, the Renewable Energy Directive and the corresponding amendment of the ACER

---

<sup>1</sup> The following were present for the final vote: Janusz Lewandowski (1st Vice-Chair), Olivier Chastel (2nd Vice-Chair), Niclas Herbst (4th Vice-Chair), José Manuel Fernandes, Adam Jarubas, Siegfried Mureşan, Petri Sarvamaa, Eleni Stavrou, Rainer Wieland (for EPP), Markus Ferber and Asim Ademov (for EPP pursuant to Rule 209(7)), Pascal Durand, Jonás Fernández, Jens Geier, Eero Heinäluoma, Camilla Laureti, Nils Ušakovs (for S&D), Inma Rodríguez-Piñero and Massimiliano Smeriglio (for S&D pursuant to Rule 209(7)), Katalin Cseh, Vlad Gheorghe, Valérie Hayer, Fabienne Keller, Moritz Körner (for Renew), Nicolae Ştefănuţă (for Verts/ALE), Zbigniew Kuźmiuk, Bogdan Rzońca (for ECR), Dimitrios Papadimoulis (for the Left) and Andor Deli (for NI)

## Regulation.

The first batch will entrust ACER with new tasks, essentially authorisation and supervisory powers on electricity data platforms, a role of centralisation of suspicious transactions on the electricity market and investigation and extended enforcement powers of the REMIT Regulation. According to the Commission assessment, ACER would need 25 additional full time equivalent (FTE) and EUR 4.2 million operational expenditure over 2025-2027. 2/3 of the staff as well as the operational expenditure will be financed from extended fee. This leaves EUR 2.9 million to be financed from the EU budget over 2025-2027.

The second batch will also entrust ACER with new tasks, essentially ex-ante approval of hubs for the trading of forward electricity contracts and of the methodology underpinning the reporting by MS on the need for flexibility in the electricity market. According to the Commission assessment, ACER would need 4 additional FTE for an amount of EUR 2.8 million over 2024-2027.

In total, the impact of the increase for ACER on the EU budget would be EUR 5.7 million over 2024-2027. The Legislative financial statement indicates that the amount will be redeployed from the ITER budget line.

### **Position of the Committee on Budgets**

Overall, the budgetary impact of the proposal is not substantial and the ACER Regulation is only modified to extend the scope of the fee-financed activities and add the tasks related to the amendment of the EMD. The Commission informs that the offsetting planned redeployment from ITER to ACER is not negatively impacting ITER to deliver upon its objectives under the MFF and reminds that the total amount of this planned offsetting of EUR 5.7 million accounts for 0.1% of the entire ITER budget over the MFF.

Still, the Committee on Budgets observes, that since the beginning of this MFF, several legislative proposals<sup>2</sup> were presented by the Commission entrusting ACER with new,

---

2

- Regulation of the European Parliament and of the Council on guidelines for trans-European energy infrastructure and repealing Regulation (EU) No 347/2013 Increase of resources for ACER for additional responsibilities in the oversight of the Ten-Year Network Development Plan. This requires a limited number of additional resources (1 additional FTE) from the CEF energy programme (see Legislative financial statement in COM(2020)824)
- The Commission Proposal for a Regulation of the European Parliament and of the Council on methane emissions reduction in the energy sector (COM(2021)805). This requires a limited number of additional resources (1 TA post as of 2023). The Budget increase is solely linked to the increase in posts. The increase of the EU contribution is proposed to be compensated by an equal reduction of the budget of the Connecting Europe Facility Energy Programme (CEF Energy programme).
- The Commission Proposal for a Regulation of the European Parliament and of the Council on the internal markets for renewable and natural gases and for hydrogen (COM(2021)804). These tasks require an increase in the agency's human resources of 15 additional establishment plan posts and 6 additional contract agents by 2027. The budget increase is linked solely to the additional staff. The increase of the EU contribution will

additional tasks which require additional financial means.

These combined new tasks for ACER add up to an increase in staff (from the MFF baseline situation of 77 permanent, 36 contract agents, 4 Seconded national experts to 142 permanent, 47 contract agents, 10 Seconded national experts) and in projected budgetary needs (budget is projected to increase up to 22,4 Million Euro in 2027 instead of 16,3 Million Euro).

The need to resort to redeployments in order to ensure the necessary additional operational and administrative resources constitutes a significant impact on the EU budget for the remainder of the financial programming period and beyond.

The European Parliament, in numerous reports and resolutions, has reiterated its general position that new tasks should be covered by fresh resources and that the practice of ‘compensation’ of reinforcements through back loading or reductions in programme envelopes should be prevented. Nevertheless, given the accumulation of new initiatives, additional needs and unexpected developments, it must be soberly stated that the default sources for such fresh appropriations in the EU budget - unallocated margins under the MFF ceilings and non-thematic special instruments are like to be virtually or even entirely depleted as of B2024.

The Committee on Budgets stands ready to follow the proposal closely during the next procedural steps in particular on discussions on the human and financial resources of ACER and any potential budgetary consequences.

Yours sincerely,  
Johan Van Overtveldt

- 
- be compensated by an equal reduction of the CEF Energy programme.
- The Commission Proposal for a Council Regulation enhancing solidarity through better coordination of gas purchases, exchanges of gas across borders and reliable price benchmarks; COM(2022)549 final. The proposal sets out new tasks for ACER to establish and publish a daily LNG price assessment and LNG benchmark. ACER will need to comply with IOSCO principles for Price Reporting Agencies (PRA), which requires experienced staff. The agency will also require additional resources for consultancy purposes, IT, and audit trails. The increase in appropriations for ACER is planned to be offset by a compensatory reduction of programmed spending under CEF Energy Programme.
  - The Commission Proposal for a Council Regulation establishing a market correction mechanism to protect citizens and the economy against excessively high prices; COM(2022)668 final. The proposal will require additional resources for ACER. In particular, the proposal sets out new tasks for ACER to monitor gas markets and assist the Commission by triggering (and later deactivating) the market correction mechanism and by monitoring intra-EU gas flows. The increase in appropriations for ACER is planned to be offset by a compensatory reduction of programmed spending under CEF Energy Programme.



## PROCEDURE – COMMITTEE RESPONSIBLE

Title	Amending Regulations (EU) No 1227/2011 and (EU) 2019/942 to improve the Union’s protection against market manipulation in the wholesale energy market		
References	COM(2023)0147 – C9-0050/2023 – 2023/0076(COD)		
Date submitted to Parliament	14.3.2023		
Committee responsible Date announced in plenary	ITRE 29.3.2023		
Committees asked for opinions Date announced in plenary	BUDG 29.3.2023	ECON 29.3.2023	IMCO 29.3.2023
Not delivering opinions Date of decision	IMCO 28.3.2023		
Rapporteurs Date appointed	Maria da Graça Carvalho 30.3.2023		
Discussed in committee	24.4.2023	23.5.2023	
Date adopted	7.9.2023		
Result of final vote	+: –: 0:	53 6 2	
Members present for the final vote	Matteo Adinolfi, Nicola Beer, François-Xavier Bellamy, Hildegard Bentele, Tom Berendsen, Vasile Blaga, Marc Botenga, Martin Buschmann, Cristian-Silviu Buşoi, Jerzy Buzek, Maria da Graça Carvalho, Ignazio Corrao, Marie Dauchy, Martina Dlabajová, Christian Ehler, Valter Flego, Lina Gálvez Muñoz, Jens Geier, Nicolás González Casares, Christophe Grudler, Henrike Hahn, Ivo Hristov, Ivars Ijabs, Seán Kelly, Łukasz Kohut, Marina Mesure, Dan Nica, Angelika Niebler, Niklas Nienass, Johan Nissinen, Mauri Pekkarinen, Mikuláš Peksa, Manuela Ripa, Robert Roos, Sara Skyttedal, Maria Spyraki, Grzegorz Tobiszowski, Marie Toussaint, Pernille Weiss		
Substitutes present for the final vote	Rasmus Andresen, Andrus Ansip, Tiziana Beghin, Franc Bogovič, Mohammed Chahim, Jakop G. Dalunde, Francesca Donato, Matthias Ecke, Cornelia Ernst, Martin Hojsík, Marina Kaljurand, Dominique Riquet, Thomas Rudner, Susana Solís Pérez, Emma Wiesner		
Substitutes under Rule 209(7) present for the final vote	Karolin Braunsberger-Reinhold, José Manuel Fernandes, Niclas Herbst, Camilla Laureti, Aušra Maldeikienė, Bogdan Rzońca, Kosma Złotowski		
Date tabled	8.9.2023		

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

53	+
NI	Tiziana Beghin, Martin Buschmann, Francesca Donato
PPE	François-Xavier Bellamy, Hildegard Bentele, Tom Berendsen, Vasile Blaga, Franc Bogovič, Karolin Braunsberger-Reinhold, Cristian-Silviu Buşoi, Jerzy Buzek, Maria da Graça Carvalho, Christian Ehler, José Manuel Fernandes, Niclas Herbst, Seán Kelly, Aušra Maldeikienė, Angelika Niebler, Sara Skyttedal, Maria Spyraiki, Pernille Weiss
Renew	Andrus Ansip, Nicola Beer, Martina Dlabajová, Valter Flego, Martin Hojsik, Ivars Ijabs, Mauri Pekkarinen, Dominique Riquet, Susana Solís Pérez, Emma Wiesner
S&D	Mohammed Chahim, Matthias Ecke, Lina Gálvez Muñoz, Jens Geier, Nicolás González Casares, Ivo Hristov, Marina Kaljurand, Łukasz Kohut, Camilla Laureti, Dan Nica, Thomas Rudner
The Left	Marc Botenga, Cornelia Ernst, Marina Mesure
Verts/ALE	Rasmus Andresen, Ignazio Corrao, Jakop G. Dalunde, Henrike Hahn, Niklas Nienass, Mikuláš Peksa, Manuela Ripa, Marie Toussaint

6	-
ECR	Johan Nissinen, Robert Roos, Bogdan Rzońca, Grzegorz Tobiszowski, Kosma Złotowski
ID	Marie Dauchy

2	0
ID	Matteo Adinolfi
Renew	Christophe Grudler

Key to symbols:

+ : in favour

- : against

0 : abstention