



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Economic and Monetary Affairs

2011/0295(COD)

20.3.2012

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DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council
on insider dealing and market manipulation (market abuse)
(COM(2011)0651 – C7-0360/2011 – 2011/0295(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Arlene McCarthy

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

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council on insider dealing and market manipulation (market abuse)
(COM(2011)0651 – C7-0360/2011 – 2011/0295(COD))**

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0651),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0360/2011),
 - 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 ...¹,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs and the opinions of the Committee on Environment, Public Health and Food Safety and of the Committee on Legal Affairs (A7-0000/2012),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 2. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C [...], [...] p. [...].

Amendment 1

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) The scope of Directive 2003/6/EC focused on financial instruments admitted to trading on regulated markets but in recent years financial instruments have been increasingly traded on multilateral trading facilities (MTFs). There are also financial instruments which are only traded on ***other types of organised trading facilities (OTFs) such as*** broker crossing systems or only traded over the counter. The scope of this Regulation should therefore be extended to include any financial instrument traded on a MTF ***or an OTF***, as well as financial instruments traded over the counter, such as for example credit default swaps, or any other conduct or action which can have an effect on such a financial instrument traded on a regulated market, MTF ***or OTF***. This should improve investor protection, preserve the integrity of markets and ensure that market manipulation of such instruments through financial instruments traded over the counter is clearly prohibited.

Amendment

(8) The scope of Directive 2003/6/EC focused on financial instruments admitted to trading on regulated markets but in recent years financial instruments have been increasingly traded on multilateral trading facilities (MTFs). There are also financial instruments which are only traded on broker crossing systems or only traded over the counter. The scope of this Regulation should therefore be extended to include any financial instrument traded on a MTF, as well as financial instruments traded over the counter, such as for example credit default swaps, or any other conduct or action which can have an effect on such a financial instrument traded on a regulated market ***or*** MTF. This should improve investor protection, preserve the integrity of markets and ensure that market manipulation of such instruments through financial instruments traded over the counter is clearly prohibited.

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout including the deletion of the relevant definition in Article 5.)

Or. en

Amendment 2

Proposal for a regulation Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) It is possible for the use of inside information to consist of the acquisition and disposal of financial instruments by a person. Since the acquisition or disposal of financial instruments necessarily involves a prior decision on the part of that person, the carrying out of such acquisition or disposal should not be deemed in itself to constitute the use of inside information.

Or. en

Amendment 3

Proposal for a regulation Recital 14 b (new)

Text proposed by the Commission

Amendment

(14b) Having access to inside information relating to another company and using it in the context of a public takeover bid for the purpose of gaining control of that company or proposing a merger with that company should not in itself be deemed to constitute insider dealing.

Or. en

Amendment 4

Proposal for a regulation Recital 14 c (new)

Text proposed by the Commission

Amendment

(14c) Research and estimates developed from publicly available data should not be regarded as inside information and, therefore, any transaction carried out on the basis of such research or estimates should not be deemed in itself to constitute insider dealing within the meaning of this Regulation.

Or. en

Amendment 5

Proposal for a regulation Recital 27

Text proposed by the Commission

Amendment

(27) Insider lists are an important tool for regulators when investigating possible market abuse, but national differences in regards to data to be included in those lists impose unnecessary administrative burdens on issuers. Data fields required for insider lists should therefore be uniform in order to reduce those costs. ***The requirement to keep and constantly update insider lists imposes administrative burdens specifically on issuers on SME growth markets. As competent authorities are able to exercise effective market abuse supervision without having those lists available at all times for those issuers they should be exempt from this obligation in order to reduce the administrative costs imposed by this Regulation.***

(27) Insider lists are an important tool for regulators when investigating possible market abuse, but national differences in regards to data to be included in those lists impose unnecessary administrative burdens on issuers. Data fields required for insider lists should therefore be uniform in order to reduce those costs.

Or. en

Amendment 6

Proposal for a regulation

Recital 28

Text proposed by the Commission

(28) Greater transparency of transactions conducted by persons discharging managerial responsibilities at the issuer level and, where applicable, persons closely associated with them, constitutes a preventive measure against market abuse. The publication of those transactions on at least an individual basis can also be a highly valuable source of information to investors. It is necessary to clarify that the obligation to publish those managers' transactions also includes the pledging or lending of financial instruments and also transactions by another person exercising discretion for the manager. ***In order to ensure an appropriate balance between the level of transparency and the number of reports notified to competent authorities and the public, a uniform threshold should be introduced in this Regulation below which transactions shall not be notified.***

Amendment

(28) Greater transparency of transactions conducted by persons discharging managerial responsibilities at the issuer level and, where applicable, persons closely associated with them, constitutes a preventive measure against market abuse. The publication of those transactions on at least an individual basis can also be a highly valuable source of information to investors. It is necessary to clarify that the obligation to publish those managers' transactions also includes the pledging or lending of financial instruments and also transactions by another person exercising discretion for the manager.

Or. en

Amendment 7

Proposal for a regulation

Recital 32

Text proposed by the Commission

(32) Since market abuse can take place across borders and markets, competent authorities should be required to cooperate and exchange information with other competent and regulatory authorities, and

Amendment

(32) Since market abuse can take place across borders and markets, competent authorities should be required to cooperate and exchange information with other competent and regulatory authorities, and

with ESMA, in particular in relation to investigation activities. Where a competent authority is convinced that market abuse is being, or has been, carried out in another Member State or affecting financial instruments traded in another Member State, it should notify that fact to the competent authority and ESMA. In cases of market abuse with cross-border effects, ESMA should ***be required to*** coordinate the investigation if requested to do so by one of the competent authorities concerned.

with ESMA, in particular in relation to investigation activities. Where a competent authority is convinced that market abuse is being, or has been, carried out in another Member State or affecting financial instruments traded in another Member State, it should notify that fact to the competent authority and ESMA. In cases of market abuse with cross-border effects, ESMA should coordinate the investigation if requested to do so by one of the competent authorities concerned ***or, where appropriate with regard to the objectives of this Regulation, on its own initiative.***

Or. en

Amendment 8

Proposal for a regulation Recital 32 a (new)

Text proposed by the Commission

Amendment

(32a) Early detection and effective investigation of market manipulation poses substantial difficulties for competent authorities. In particular when such manipulation is conducted through order-book activity the fragmentation of trading venues hinders market oversight due to lack of consolidated data. In order to address this shortcoming, an effective mechanism needs to be established to allow cross-market order-book surveillance. To that end, the competent authorities of the most relevant market in terms of liquidity for a financial instrument need to receive comprehensive order-book data on a daily basis from regulated markets and MTFs. In accordance with Article 48(2) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments¹, the competent authorities should be able to

delegate surveillance tasks to third parties. This means that a competent authority that receives the data should consolidate order-book data and then forward it to the third party in charge of surveillance. The competent authority should allow that consolidated order-book data to be available upon request to other Member States' competent authorities should they require it for investigative purposes.

¹ *OJ L 145, 30.4.2004, p. 1.*

Or. en

Amendment 9

Proposal for a regulation Recital 34

Text proposed by the Commission

(34) A sound prudential and conduct of business framework for the financial sector should rest on strong supervisory and sanctioning regimes. To this end, supervisory authorities should be equipped with sufficient powers to act and should be able to rely on equal, strong and deterrent sanctions regimes against all financial misconduct, sanctions which should be enforced effectively. However, the High Level Group considered that none of these elements is currently in place. A review of existing sanctioning powers and their practical application aimed at promoting convergence of sanctions across the range of supervisory activities has been carried out in the Commission Communication of 8 December 2010 on reinforcing sanctioning regimes in the financial sector.

Amendment

(34) A sound prudential and conduct of business framework for the financial sector should rest on strong supervisory and sanctioning regimes. To this end, supervisory authorities should be equipped with sufficient powers to act and should be able to rely on equal, strong and deterrent sanctions regimes against all financial misconduct, sanctions which should be enforced effectively. However, the High Level Group considered that none of these elements is currently in place. A review of existing sanctioning powers and their practical application aimed at promoting convergence of sanctions across the range of supervisory activities has been carried out in the Commission Communication of 8 December 2010 on reinforcing sanctioning regimes in the financial sector. ***Therefore, this Regulation, together with Directive 2012/.../EU of the European Parliament and of the Council of ... [on***

criminal sanctions for insider dealing and market manipulation] aims at establishing a detailed framework concerning, in particular, the sanctions that are to be imposed to combat market abuse.

Or. en

Amendment 10

Proposal for a regulation

Recital 35

Text proposed by the Commission

(35) *Therefore, as well as providing regulators with effective supervisory tools and powers*, a set of administrative measures, sanctions and fines should be laid down to ensure a common approach in Member States and to enhance their deterrent effect. Administrative fines should take into account factors such as the disgorgement of any identified financial benefit, the gravity and duration of the breach, any aggravating or mitigating factors, the need for fines to have a deterrent effect and, where appropriate, include a discount for cooperation with the competent authority. The adoption and publication of sanctions should respect fundamental rights as laid down in the Charter of Fundamental Rights of the European Union, *in particular the right to respect for private and family life (Article 7), the right to the protection of personal data (Article 8) and the right to an effective remedy and to a fair trial (Article 47)*.

Amendment

(35) *On the one hand*, a set of administrative measures, sanctions and fines should be laid down *by this Regulation* to ensure a common approach in Member States and to enhance their deterrent effect. Administrative fines should take into account factors such as the disgorgement of any identified financial benefit, the gravity and duration of the breach, any aggravating or mitigating factors, the need for fines to have a deterrent effect and, where appropriate, include a discount for cooperation with the competent authority. The adoption and publication of sanctions should respect fundamental rights as laid down in the Charter of Fundamental Rights of the European Union.

Or. en

Amendment 11

Proposal for a regulation Recital 35 a (new)

Text proposed by the Commission

Amendment

(35a) On the other hand, Directive 2012/.../EU of the European Parliament and of the Council of ... [on criminal sanctions for insider dealing and market manipulation] should introduce a requirement for all Member States to put in place effective, proportionate and dissuasive criminal sanctions for the most serious insider dealing and market manipulation offences. Both acts are intended to be complementary and should, together, provide the necessary instruments and tools to impose the appropriate sanctions as the case may be. However, nothing should oblige the authorities in question to choose from the beginning of the investigation the type of sanctions that they wish to impose. In other words, the fact that an investigation is started with a view to imposing administrative sanctions should not exclude the imposition of criminal sanctions, depending on the specificities of the case.

Or. en

Amendment 12

Proposal for a regulation Article 2 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) financial instruments traded over the counter irrespective of whether they are admitted to trading on a regulated market;

Amendment 13

Proposal for a regulation Article 3 – paragraph 1

Text proposed by the Commission

1. The prohibitions in Articles 9 and 10 of this Regulation do not apply to trading in **own shares** in buy-back programmes when the full details of the programme are disclosed prior to the start of trading, trades are reported as being part of the buy-back programme to the competent authority and subsequently disclosed to the public, and adequate limits with regards to price and volume are respected.

Amendment

1. The prohibitions in Articles 9 and 10 of this Regulation do not apply to trading in **financial instruments** in buy-back programmes when the full details of the programme are disclosed prior to the start of trading, trades are reported as being part of the buy-back programme to the competent authority and subsequently disclosed to the public, and adequate limits with regards to price and volume are respected.

Or. en

Amendment 14

Proposal for a regulation Article 3 – paragraph 2

Text proposed by the Commission

2. The prohibitions in Articles 9 and 10 of this Regulation do not apply to trading in **own shares** for the stabilisation of a financial instrument when stabilisation is carried out for a limited time period, when relevant information about the stabilisation is disclosed, and adequate limits with regards to price are respected.

Amendment

2. The prohibitions in Articles 9 and 10 of this Regulation do not apply to trading in **financial instruments** for the stabilisation of a financial instrument when stabilisation is carried out for a limited time period, when relevant information about the stabilisation is disclosed, and adequate limits with regards to price are respected.

Or. en

Amendment 15

Proposal for a regulation

Article 5 – paragraph 1 – point 19 a (new)

Text proposed by the Commission

Amendment

19a. "order-book data" means information which is required to be provided in relation to a single order sent to the regulated market or MTF for the purpose of entering the order book which is held and maintained by the operator of the regulated market or the MTF concerned.

Or. en

Amendment 16

Proposal for a regulation

Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The Commission shall be empowered to adopt delegated acts in accordance with Article 32 concerning the amendment of the definitions set out in the first paragraph, if appropriate, in line with the definitions set out in Regulation (EU) No .../2012 of the European Parliament and of the Council of ... [on MIFIR] and Directive 2012/.../EU of the European Parliament and of the Council of ... [on MiFID]. in order to take into account:

(a) technical developments on financial markets;

(b) the list of abusive practices as referred to in Article 34b(b) in particular with regard to high-frequency trading and including, but not limited to, spoofing, quote stuffing and layering.

Or. en

Amendment 17

Proposal for a regulation

Article 6 – paragraph 1 – point b

Text proposed by the Commission

(b) in relation to derivatives on commodities, information of a precise nature, which has not been made public, relating, directly or indirectly, to one or more such derivatives or to the related spot commodity contract, and which, if it were made public, would be likely to have a significant effect on the prices of such derivatives or related spot commodity contracts; notably information which is required to be disclosed in accordance with legal or regulatory provisions at the Union or national level, market rules, contracts or customs, on the relevant commodity derivatives or spot markets.

Amendment

(b) in relation to derivatives on commodities, information of a precise nature, which has not been made public, relating, directly or indirectly, to one or more such derivatives or to the related spot commodity contract, and which, if it were made public, would be likely to have a significant effect on the prices of such derivatives or related spot commodity contracts ***or to have a distortive effect on the functioning of the commodity derivatives markets or to hinder supervision of the market concerned***; notably information which is required to be disclosed in accordance with legal or regulatory provisions at the Union or national level, market rules, contracts or customs, on the relevant commodity derivatives or spot markets.

Or. en

Amendment 18

Proposal for a regulation

Article 6 – paragraph 1 – point e

Text proposed by the Commission

(e) information not falling within paragraphs (a), (b), (c) or (d) relating to one or more issuers of financial instruments or to one or more financial instruments, which is not generally available to the public, but which, if it were available to a reasonable investor, who regularly deals on the market and in the

Amendment

(e) information not falling within paragraphs (a), (b), (c) or (d) relating to one or more issuers of financial instruments or to one or more financial instruments, which is not generally available to the public, but which, if it were available to a reasonable investor, who regularly deals on the market and in the

financial instrument or a related spot commodity contract concerned, would be regarded by that person as relevant when deciding the terms on which transactions in the financial instrument or a related spot commodity contract should be effected.

financial instrument or a related spot commodity contract concerned, would be regarded by that person as relevant when deciding the terms on which transactions in the financial instrument or a related spot commodity contract should be effected ***and where any type of conduct upon such information is likely to be regarded by a reasonable investor who regularly deals on the market as a failure on the part of the person concerned to observe the standard of behaviour reasonably expected of a person in such position in relation to that market.***

Or. en

Amendment 19

Proposal for a regulation Article 8 – paragraph 1 – point b

Text proposed by the Commission

(b) entering into a transaction, placing an order to trade or any other behaviour affecting the price of one or several financial instruments or a related spot commodity contract, which employs a fictitious device or any other form of deception or contrivance; or

Amendment

(b) entering into a transaction, placing an order to trade or any other behaviour affecting the price ***or the normal functioning*** of one or several financial instruments or a related spot commodity contract, which employs a fictitious device or any other form of deception or contrivance; or

Or. en

Amendment 20

Proposal for a regulation Article 8 – paragraph 3 – point a

Text proposed by the Commission

(a) conduct by a person, or persons acting in collaboration, to secure a dominant

Amendment

(a) conduct by a person, or persons acting in collaboration, to secure a dominant

position over the supply of or demand for a financial instrument or related spot commodity contracts which has the effect of fixing, directly or indirectly, purchase or sale prices or creating other unfair trading conditions,

position *or otherwise* over the supply of or demand for a financial instrument or related spot commodity contracts which has the effect of fixing, directly or indirectly, purchase or sale prices or creating other unfair trading conditions *or creating prices at an abnormal and artificial level, or causing disruption of the normal functioning of the trading in commodity derivative contracts;*

Or. en

Amendment 21

Proposal for a regulation Article 10 a (new)

Text proposed by the Commission

Amendment

Article 10a

Abusive order entry

Operators of trading venues shall have in place rules to avoid abusive order entry. Those rules shall provide that market participants that make more than a 250:1 ratio of orders to transactions pay an additional fee. The amount of the fee shall be established by the operator of the trading venue.

Or. en

Amendment 22

Proposal for a regulation Article 11 – paragraph 1

Text proposed by the Commission

Amendment

1. Any person who operates the business of a trading venue shall adopt and maintain effective arrangements and procedures in

1. Any person who operates the business of a trading venue *or trading over the counter* shall adopt and maintain effective

accordance with [Articles 31 and 56] of Directive [new MiFID] aimed at preventing and detecting market abuse.

arrangements and procedures in accordance with [Articles 31 and 56] of Directive [new MiFID] aimed at preventing and detecting market abuse.

Or. en

Amendment 23

Proposal for a regulation

Article 11 – paragraph 3– subparagraph 2

Text proposed by the Commission

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by [...].

Amendment

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by [...]*.

**** OJ: please insert date: 12 months after the date of entry into force of this Regulation.***

Or. en

Amendment 24

Proposal for a regulation

Article 12 – paragraph 1

Text proposed by the Commission

1. An issuer of a financial instrument shall inform the public as soon as possible ***of*** inside information, which directly concerns the issuer, and shall, for an appropriate period, post on its Internet site all inside information it is required to disclose publicly.

Amendment

1. An issuer of a financial instrument shall inform the public as soon as possible ***after having reported to the relevant competent authority,*** inside information, which directly concerns the issuer, and shall, for an appropriate period, post on its Internet site all inside information it is required to disclose publicly.

Or. en

Amendment 25

Proposal for a regulation Article 12 – paragraph 9 – subparagraph 2

Text proposed by the Commission

ESMA shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by [...].

Amendment

ESMA shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by [...]*.

**** OJ: please insert date: 12 months after the date of entry into force of this Regulation.***

Or. en

Amendment 26

Proposal for a regulation Article 13 – paragraph 2

Text proposed by the Commission

2. Issuers of a financial instrument whose financial instruments are admitted to trading on an SME growth market shall be exempt from drawing up such a list. However, if requested to do so by the competent authority as part of the exercise of its supervisory or investigatory functions, that issuer shall provide the competent authority with a list identifying those persons working for them with access to inside information.

Amendment

deleted

Or. en

Amendment 27

Proposal for a regulation Article 13 – paragraph 3

Text proposed by the Commission

Amendment

3. This Article shall not apply to issuers who have not requested or approved admission of their financial instruments to trading on a regulated market in a Member State or, in the case of an instrument only traded on a MTF or an OTF, have not requested or approved trading of their financial instruments on a MTF or an OTF in a Member State.

deleted

Or. en

Amendment 28

Proposal for a regulation Article 13 – paragraph 6 – subparagraph 2

Text proposed by the Commission

Amendment

ESMA shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by [...].

ESMA shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by [...]*.

*** OJ: please insert date: 12 months after the date of entry into force of this Regulation.**

Or. en

Amendment 29

Proposal for a regulation Article 14 – paragraph 3

Text proposed by the Commission

Amendment

3. Paragraph 1 shall not apply to transactions totalling under EUR 20,000 over the period of a calendar year.

deleted

Or. en

Amendment 30

Proposal for a regulation Article 14 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. A person discharging managerial responsibilities within an issuer of a financial instrument shall not conduct any transactions on his or her own account relating to the shares of that issuer or to derivatives or other financial instruments linked to them within a trading window.

Or. en

Amendment 31

Proposal for a regulation Article 14 – paragraph 6

Text proposed by the Commission

Amendment

6. The Commission shall adopt, **by means** of delegated acts in accordance with **Article 31**, measures specifying the professional functions of persons who are considered to discharge managerial responsibility as referred to in paragraph 1, the types of association, including by birth

6. The Commission shall adopt delegated acts in accordance with **Article 32**, measures specifying:

as well as under civil and contractual law, considered to create a close personal association, the characteristics of a transaction referred to in paragraph 2 which trigger that duty, **and** the information that must be made public and the means of informing the public.

- the professional functions of persons who are considered to discharge managerial responsibility as referred to in paragraph 1,

- the types of association, including by birth as well as under civil and contractual law, considered to create a close personal association,

- the characteristics of a transaction referred to in paragraph 2 which trigger that duty,

- the information that must be made public **as required under paragraph 1** and the means of informing the public, **and**

- the arrangements and the conditions for the application of trading windows and, in particular, the start and the end point of such trading windows and the possibility of banning trade outside of the trading windows in view of particular circumstances.

ESMA shall provide the Commission with technical advice before the delegated acts are drafted.

Or. en

Amendment 32

Proposal for a regulation

Article 15 – paragraph 3 – subparagraph 2

Text proposed by the Commission

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by [...].

Amendment

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by [...].*

*** OJ: please insert date: 12 months after the date of entry into force of this Regulation.**

Or. en

Amendment 33

Proposal for a regulation Article 16

Text proposed by the Commission

Without prejudice to the competences of the judicial authorities, each Member State shall designate a single administrative competent authority for the purpose of this Regulation. The competent authority shall ensure that the provisions of this regulation are applied on its territory, regarding all actions carried out on its territory, and those actions carried out abroad relating to instruments admitted to trading on a regulated market, for which a request for admission to trading on such market has been made, or which are traded on an MTF or **OTF** operating, within its territory. Member States shall inform the Commission, ESMA and the competent authorities of other Member States thereof.

Amendment

Without prejudice to the competences of the judicial authorities, each Member State shall designate a single administrative competent authority for the purpose of this Regulation **and provide sufficient resources to that authority to fulfil its powers provided for in this Regulation.** The competent authority shall ensure that the provisions of this regulation are applied on its territory, regarding all actions carried out on its territory, and those actions carried out abroad relating to instruments admitted to trading on a regulated market, for which a request for admission to trading on such market has been made, or which are traded on an MTF or a **broker crossing system** operating, within its territory, or **which are traded over the counter.** Member States shall inform the Commission, ESMA and the competent authorities of other Member States thereof.

Or. en

Amendment 34

Proposal for a regulation

Article 17 – paragraph 2 – introductory wording

Text proposed by the Commission

2. In order to fulfil their duties under this Regulation, competent authorities shall have, in conformity with ***the existing*** national law ***and powers***, at least the following supervisory and investigatory powers:

Amendment

2. In order to fulfil their duties under this Regulation, competent authorities shall have, in conformity with national law, at least the following supervisory and investigatory powers:

Or. en

Amendment 35

Proposal for a regulation

Article 17 – paragraph 2 – point f

Text proposed by the Commission

(f) require existing telephone and existing data traffic records held by a telecommunication operator or by an investment firm, where a reasonable suspicion exists that such records related to the subject-matter of the inspection may be relevant to prove insider dealing or market manipulation ***as defined in [new MAD]*** in violation of this Regulation or Directive [new MAD]; these records shall however not concern the content of the communication to which they relate./

Amendment

(f) require existing telephone and existing data traffic records held by a telecommunication operator or by an investment firm, where a reasonable suspicion exists that such records related to the subject-matter of the inspection may be relevant to prove insider dealing or market manipulation in violation of this Regulation or Directive [new MAD]; these records shall however not concern the content of the communication to which they relate.

Or. en

Amendment 36

Proposal for a regulation Article 17 – paragraph 3

Text proposed by the Commission

The competent authorities shall exercise the supervisory and investigatory powers, referred to in paragraph 2, in accordance with national law.

Amendment

The competent authorities shall exercise the supervisory and investigatory powers, referred to in paragraph 2, in accordance with national law. ***The competent authorities shall neither seek nor take instructions from any person associated with the entity under investigation.***

Or. en

Amendment 37

Proposal for a regulation Article 17 a (new)

Text proposed by the Commission

Amendment

Article 17a

Cross-market order-book surveillance

1. For any financial instrument admitted to trading on a regulated market or an MTF, the competent authority of the Member State which is the most relevant market in terms of liquidity within the meaning of Article 23 [of MIFIR] shall have the power to conduct cross-market supervision of market manipulation conducted through order-book activity.

2. Operators of regulated markets and MTFs shall provide order-book data regarding financial instruments that are actively traded on that regulated market or MTF to their home Member State competent authority.

Where that competent authority is not the competent authority referred to in paragraph 1, it shall make the necessary arrangements to consolidate and forward

the corresponding order-book data to the competent authority referred to in paragraph 1.

In any event, the home Member State competent authority of the regulated markets or MTF shall remain responsible for ensuring that regulated markets and MTFs under its supervision report orders in compliance with applicable data standards.

3. The order-book data referred to in paragraph 2 shall be clear, precise and appropriately detailed so as to allow the competent authorities to perform cross-market supervision pursuant to paragraph 1. Such data shall include the following:

(a) the identification code of the member which transmitted the order to the regulated market or MTF;

(b) the identification of the financial instrument;

(c) the date and time (with milliseconds) on which the order was transmitted to the regulated market or MTF;

(d) the characteristics of the order including in particular:

- the buy / sell indicator;

- the initial and remaining / outstanding quantity (taking into account any partial execution(s) or event(s) affecting the order), both displayed and hidden;

- the type of the order (e.g., market, limit, stop);

- the limit price (if applicable);

- the validity period as specified by the market participant (e.g., end of day, good till cancelled, any specified date and time, next closing);

- any condition(s) for the order to be executed (e.g., minimum executable size, stop price);

(e) date and time (with milliseconds) of any event affecting those characteristics;

(f) type of event which resulted in a change of these characteristics (e.g., modification of characteristics by the market participant, cancellation, partial (or full) execution, market interruption, stop trigger);

(g) the identification code of the order;

(h) whether the order is entered by the market member (of the regulated market and where available the MTF) on own account (principal capacity) or on behalf of a third party (agent capacity).

That information shall be provided for every characteristic validity period of the order, defined as a period of time during which the characteristics listed in point (d) remain the same and are not affected by any event. For the avoidance of doubt, that information shall include for each characteristic validity period its start date / time (with milliseconds), end date / time (with milliseconds) and the type of event which resulted in its ending.

4. The competent authority referred to in paragraph 1 shall make order-book data available to any other competent authority on its request.

5. ESMA shall develop draft regulatory technical standards in order to define:

(a) the list of financial instruments that should be subject to cross-market supervision, the details and the technical specifications for order book data as well as the periodicity in which such data must be provided;

(b) the instances where other competent authorities may in accordance with paragraph 4 request order book data from the competent authority of the most relevant market in terms of liquidity.

ESMA shall submit the draft regulatory technical standards referred to in the first

subparagraph to the Commission by*

Power is conferred to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

7. By ... ESMA shall draw up a report assessing the functioning of cross-market order book surveillance including how ESMA could assist and support the execution of this task.*

** OJ: please insert date: 24 months after the entry into force of this Regulation.*

Or. en

Amendment 38

Proposal for a regulation

Article 18 – paragraph 3 – subparagraph 2

Text proposed by the Commission

ESMA shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by [...].

Amendment

ESMA shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by [...]*.

** OJ: please insert date: 12 months after the date of entry into force of this Regulation.*

Or. en

Amendment 39

Proposal for a regulation

Article 19 – paragraph 1

Text proposed by the Commission

1. Competent authorities shall cooperate

Amendment

1. Competent authorities shall cooperate

with each other and ESMA where it is necessary for the purposes of this Regulation. ***In particular***, competent authorities shall render assistance to competent authorities of other Member States and ESMA, ***and, without undue delay***, exchange information and cooperate in investigation and enforcement activities. ***This cooperation and assistance*** shall also apply as regards the Commission in relation to the exchange of information relating to commodities which are agricultural products listed in Annex I to the Treaty.

with each other and ESMA where it is necessary for the purposes of this Regulation. Competent authorities shall render assistance to competent authorities of other Member States and ESMA. ***In particular, they shall*** exchange information, ***without undue delay***, and cooperate in investigation and enforcement activities.

The obligation to cooperate and assist laid down in the first subparagraph shall also apply as regards the Commission in relation to the exchange of information relating to commodities which are agricultural products listed in Annex I to the Treaty.

Or. en

Amendment 40

Proposal for a regulation

Article 19 – paragraph 5 – subparagraph 2

Text proposed by the Commission

The competent authority shall inform ESMA of any request referred to in the first subparagraph. In case of an investigation or an inspection with cross-border effect, ESMA shall if requested to do so by one of the competent authorities coordinate the investigation or inspection.

Amendment

The competent authority shall inform ESMA of any request referred to in the first subparagraph. In case of an investigation or an inspection with cross-border effect, ESMA shall if requested to do so by one of the competent authorities, ***or on its own initiative, where appropriate with regard to the objectives of this Regulation***, coordinate the investigation or inspection.

Or. en

Amendment 41

Proposal for a regulation

Article 19 – paragraph 7 – subparagraph 1

Text proposed by the Commission

7. Competent authorities shall cooperate and exchange information with relevant national and third country regulatory authorities responsible for the related spot markets where they have reasonable grounds to suspect that acts, which constitute market **abuse** in accordance with **Article 2**, are being, or have been, carried out. This cooperation shall ensure a consolidated overview of the financial and spot markets, and detect and sanction cross-market and cross-border market abuses.

Amendment

7. Competent authorities shall cooperate and exchange information with relevant national and third country regulatory authorities responsible for the related spot markets where they have reasonable grounds to suspect that acts, which constitute **insider dealing or market manipulation** in accordance with **this Regulation or with Directive 2012/.../EU of the European Parliament and of the Council of ... [on criminal sanctions for insider dealing and market manipulation]**, are being, or have been, carried out. This cooperation shall ensure a consolidated overview of the financial and spot markets, and detect and sanction cross-market and cross-border market abuses.

Or. en

Amendment 42

Proposal for a regulation

Article 19 – paragraph 9 – subparagraph 2

Text proposed by the Commission

ESMA shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by [...].

Amendment

ESMA shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by [...]*.

*** OJ: please insert date: 12 months after the date of entry into force of this Regulation.**

Or. en

Amendment 43

Proposal for a regulation

Article 20 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. ESMA shall coordinate the development of cooperation arrangements between the competent authorities of Member States and the relevant competent authorities of third countries. ***For that purpose***, ESMA shall ***prepare*** a template document for cooperation arrangements that ***may*** be used by competent authorities of Member States.

Amendment

2. ESMA shall coordinate the development of cooperation arrangements between the competent authorities of Member States and the relevant competent authorities of third countries. ***In accordance with Article 15 of Regulation (EU) No 1095/2010***, ESMA shall ***develop draft regulatory technical standards containing*** a template document for cooperation arrangements that ***are to*** be used by competent authorities of Member States.

ESMA shall submit those draft regulatory technical standards to the Commission by ... *.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

**** OJ: please insert date: 12 months after the date of entry into force of this Regulation.***

Or. en

Amendment 44

Proposal for a regulation

Article 26 – paragraph 1 – introductory part

Text proposed by the Commission

1. Without prejudice to the supervisory powers of competent authorities in accordance with Article 17, in *case* of a breach ***referred to in paragraph 1***, competent authorities shall, in conformity

Amendment

1. Without prejudice to the supervisory powers of competent authorities in accordance with Article 17, in *the event* of a breach ***of Article 9 or 10***, competent authorities shall, in conformity with

with national law, have the power to impose at least the following administrative measures and sanctions:

national law, have the power to impose at least the following administrative measures and sanctions:

Or. en

Amendment 45

Proposal for a regulation Article 28 a (new)

Text proposed by the Commission

Amendment

Article 28 a

Rights of the defence

Member States shall put in place appropriate procedures to ensure the rights of the defence of the person who is subject to an investigation on the basis of this Regulation. Such procedures shall ensure that the person concerned is heard before the adoption of a decision concerning him or her, and that that person has the right to seek effective judicial remedy against a decision concerning him or her.

Or. en

Amendment 46

Proposal for a regulation Article 29 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall put in place effective mechanisms to encourage reporting of breaches of this Regulation to competent authorities, including at least:

(a) specific procedures for the receipt of reports of breaches and their follow-up;

1. Member States shall put in place effective mechanisms to encourage reporting of breaches of this Regulation to competent authorities, including at least specific procedures for the receipt of reports of breaches and their follow-up.

(b) appropriate protection for persons who report potential or actual breaches;

(c) protection of personal data concerning both the person who reports the potential or actual breaches and the accused person in compliance with the principles laid down in Directive 95/46/EC;

(d) appropriate *procedures to ensure the right of the accused person of defence and to be heard before the adoption of a decision concerning him and the right to seek effective judicial remedy against any decision or measure concerning him.*

Such procedures shall ensure that the following principles are complied with:

(a) appropriate protection for persons who report potential or actual breaches, *in particular and without prejudice to national provisions regulating judicial proceedings, the confidentiality of the identity of those persons during all stages of the procedure;*

(b) protection of personal data concerning both the person who reports the potential or actual breaches and the accused person in compliance with the principles laid down in Directive 95/46/EC;

(c) appropriate *protection for* the accused person; *and*

(d) *appropriate protection from adverse treatment at work for, and provision of legal assistance to, both the person who reports and the accused person.*

Or. en

Amendment 47

Proposal for a regulation Article 29 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Issuers of financial instruments or emission allowance market participants shall have in place appropriate internal procedures for their employees to report of breaches of this Regulation internally through a specific channel.

Such procedures shall comply with the principles set out in the second subparagraph of paragraph 1.

Amendment 48

Proposal for a regulation Article 29 – paragraph 3

Text proposed by the Commission

3. The Commission shall adopt, by means of **implementing** acts in accordance with Article 33, measures to specify the procedures referred to in paragraph 1, including the modalities of reporting and the modalities for following-up of reports, the measures for the protection of persons.

Amendment

3. The Commission shall adopt, by means of **delegated** acts in accordance with Article 32, measures to specify the procedures referred to in paragraph 1, including the modalities of reporting and the modalities for following-up of reports, the measures for the protection of persons.

Or. en

Amendment 49

Proposal for a regulation Article 30 – paragraph 4 – subparagraph 2

Text proposed by the Commission

ESMA shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by [...].

Amendment

ESMA shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by [...]*.

*** OJ: please insert date: 12 months after the date of entry into force of this Regulation.**

Or. en

Amendment 50

Proposal for a regulation Article 31

Text proposed by the Commission

Amendment

Article 31

deleted

Delegation of powers

The Commission shall be empowered to adopt delegated acts in accordance with Article 32 concerning the supplementing and amending of the conditions for buy-back programmes and stabilisation of financial instruments, the definitions in this Regulation, the conditions for drawing up insider lists, the conditions relating to managers' transactions and the arrangements for persons who provide information that may lead to the detection of breaches of this Regulation.

Or. en

Amendment 51

Proposal for a regulation Article 32 – paragraph 2

Text proposed by the Commission

Amendment

2. The *delegation of* power shall be conferred for an indeterminate period of time from the date referred to in Article 36(1).

2. The power *to adopt delegated acts referred to in Article 3(3), Article 5, Article 12(2), Article 13(4), Article 14(6) and Article 29(3)* shall be conferred *on the Commission* for an indeterminate period of time from the date referred to in Article 36(1).

Or. en

Amendment 52

Proposal for a regulation Article 32 – paragraph 3

Text proposed by the Commission

3. The delegation of power may be revoked at any time by the European Parliament or by the Council. A decision *of revocation* 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.

Amendment

3. The delegation of power *referred to in Article 3(3), Article 5, Article 12(2), Article 13(4), Article 14(6) and Article 29(3)* 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.

Or. en

Amendment 53

Proposal for a regulation Article 32 – paragraph 5

Text proposed by the Commission

5. A delegated act 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 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.

Amendment

5. A delegated act *adopted pursuant to Article 3(3), Article 5, Article 12(2), Article 13(4), Article 14(6) and Article 29(3)* shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **three months** of notification of that act to the European Parliament and 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 **three months** at the initiative of the European Parliament or the Council.

Amendment 54

Proposal for a regulation Article 32 a (new)

Text proposed by the Commission

Amendment

Article 32a

Deadline for the adoption of delegated acts

The Commission shall adopt delegated acts under Article 3(3), Article 5, Article 12(2), Article 13(4), Article 14(6) and Article 29(3) by*

** OJ: please insert date: 18 months after the date of entry into force of this Regulation.*

Or. en

Amendment 55

Proposal for a regulation Article 34

Text proposed by the Commission

Amendment

Directive 2003/6/EC shall be repealed with effect from **[24 months after entry into force of this Regulation]**. References to Directive 2003/6/EC shall be construed as references to this Regulation.

Directive 2003/6/EC shall be repealed with effect from ...*. References to Directive 2003/6/EC shall be construed as references to this Regulation.

** OJ please insert date: 12 months after the entry into force of this Regulation.*

Or. en

Amendment 56

**Proposal for a regulation
Article 34 a (new)**

Text proposed by the Commission

Amendment

Article 34a

Review and report

By 30 June 2014, the Commission shall, after consulting the competent authorities and ESMA, report to the European Parliament and the Council on the appropriateness of the proportionate regime for issuers of financial instruments admitted to trading on a SME growth market, in particular as provided for in Article 12(7).

Or. en

Amendment 57

**Proposal for a regulation
Article 34 b (new)**

Text proposed by the Commission

Amendment

Article 34b

ESMA advisory committee on high-frequency trading

By 30 June 2014, ESMA shall set up an advisory committee of national experts to determine forms of high-frequency trading that could potentially constitute market manipulation with a view to:

- (a) increasing ESMA's knowledge about high-frequency trading; and***
- (b) providing a list of abusive practices with regard to high-frequency trading, including spoofing, quote stuffing and***

layering, for the purposes of Article 5(1a).

Or. en

Amendment 58

Proposal for a regulation Article 35 a (new)

Text proposed by the Commission

Amendment

Article 35a

Staff and resources of ESMA

By ... *, ESMA shall assess its staffing and resources needs arising from the assumption of its powers and duties under this Regulation and submit a report to the European Parliament, the Council and the Commission.

**** OJ: please insert date: 12 months after the date of entry into force of this Regulation.***

Or. en

Amendment 59

Proposal for a regulation Article 36

Text proposed by the Commission

Amendment

2. It shall apply from ***[24 months after entry into force of this Regulation]*** except for Articles 3(2), , 8(5), 11(3), 12(9), 13(4), 13(6), 14(5), 14(6), 15(3), 18(9), 19(9), 28(3) and 29(3) which shall apply immediately following the entry into force of this Regulation.

2. It shall apply from ...* except for Articles 3(2), 8(5), 11(3), 12(9), 13(4), 13(6), 14(5), 14(6), 15(3), 18(9), 19(9), 28(3) and 29(3) which shall apply immediately following the entry into force of this Regulation.

** OJ please insert date: 12 months after
the entry into force of this Regulation.*

Or. en

EXPLANATORY STATEMENT

The market abuse framework is an essential part of the EU financial reform agenda, ensuring confidence in EU markets and therefore the ability of EU companies to use these markets to raise capital.

As a result of the ever integrated and globalised financial markets and development of new trading platforms and technologies, possibilities for market abuse have grown substantially.

We therefore need to change the rules to ensure we properly tackle market abuse in all trading platforms and in all activities across the EU.

The national competent authorities must therefore have the tools to effectively monitor, detect and prosecute market abuse.

The Commission proposals revise the 2003 Market Abuse Directive into a regulation directly applicable across the EU and contain a new Directive which will require criminal sanctions to be in place for the most serious offences of market abuse committed with intent.

Updating, expanding and strengthening this framework, while adding innovations to tackle abuse through high frequency trading are essential.

The new Market Abuse Regulation is designed to address:

- serious gaps in regulation of new markets, platforms and over-the-counter (OTC) trading in financial instruments
- loopholes in the regulation of commodities and commodity derivatives
- obstacles to effective enforcement for regulators
- administrative burdens for SMEs
- the lack of legal certainty, which undermines the effectiveness of the MAD, and
- the lack of criminal sanctions.

This report proposes a number of amendments to the Commission text to create a more robust and strong market abuse framework.

Regulators raised concerns that increased market fragmentation resulting from the creation of multiple trading venues has contributed to an expansion of the potential for market abuse and made the detection of such abusive practices substantially more difficult. Asian markets for example are not as fragmented as in those in the EU and as a result supervision and insider manipulation surveillance is less complex for authorities to perform. Since the Organised Trading Facility (OTF) category introduces another trading venue and could exacerbate this situation all references to this facility have been removed.

A number of stakeholders have raised legitimate concerns regarding the current definition of inside information, the text has been amended to clarify the definition and provide legal certainty while retaining the scope necessary for competent authorities to effectively combat market abuse.

Strong deterrent measures are crucial to ensuring market participants are prevented from engaging in abusive practices. The introduction of an obligation on the operators of trading venues to have in place rules to avoid abusive order entry is considered appropriate.

The report will introduce the concept of a "trading window" which prohibits managers from conducting any transactions on their own account during certain periods. The Commission, with input from ESMA, will adopt measures outlining the design and conditions for the application of these "trading windows", focusing in particular, on the start and the end of the time period as well as the possibility of banning trade outside of the "trading window" in certain circumstances.

All transactions carried out by managers will need to be reported as was the case under the original Market Abuse Directive. The threshold for reporting of managers' transactions over 20,000 Euros introduced by the Commission has been removed because such a figure needs to be justified.

Provisions for the protection of whistleblowers have been strengthened.

As a general rule the EU should continue to seek ways of reducing administrative burdens and bureaucracy on SMEs however, in the case of market abuse this would constitute an inappropriate derogation to this Regulation's fundamental principle which is designed to protect investors. All market participants should apply the same rules. Small businesses could be in charge of billions of Euros in turnover and therefore this would not warrant an exemption from rules to keep insider lists, a key tool for supervisors.

In the current equity trading landscape, it is very difficult, not to say impossible, for competent authorities to detect cross-venue market manipulation. National competent authorities have cited cases of market abuse involving participants in up to 7 Member States. As markets become more integrated there is an increasing trend towards more cross border market abuse. Ensuring effective cooperation and data exchange is vital to allow national competent authorities to fulfill their surveillance tasks. Failure to establish cross border surveillance mechanisms will only exacerbate the existing gaps and loopholes and aid those who wish to commit abuse across borders.

In order to address this shortcoming, the competent authority of the most relevant market in terms of liquidity for a financial instrument should be provided with daily comprehensive order book data from all the MTFs and Regulated Markets where the share is actively traded. The objective is to ensure that a competent authority has all the necessary information to be able to detect cross-market manipulation through order books.

Having access to order book data from Regulated Markets and MTFs and, as already foreseen, by receiving transaction reporting by all firms (therefore covering OTC trading), competent authorities will have the necessary information to build the global picture, including OTC. A consolidated view of all significant order books in a given instrument is

crucial to enable effective market surveillance. In order to maintain a certain flexibility, this proposal foresees, as stated in Article 48(2) of current MiFID, that competent authorities can delegate surveillance tasks to third parties. Moreover, this proposal would allow any other national competent authority to request this data should they need it for investigation purposes. Finally, the proposed text requests ESMA to draw up a report assessing the functioning of cross-market order book surveillance including how ESMA could assist and support the execution of this task.

IOSCO's report 'Regulatory Issues raised by the Impact of Technological Changes in Market Integrity and Efficiency'¹ identifies three areas which are exposed to risks linked to High Frequency Trading (HFT):

- 1) market efficiency (negative impact on the price discovery process, motivation for non-HFT to move to dark trading, lack of depth of the HFT liquidity)
- 2) fairness and integrity of markets (non-discriminatory access to co-location, technological 'arms race' only accessible to a few, front-running through detection of 'large orders' patterns, large-scale market abuse, conflict of interest in HFT-owned trading platforms)
- 3) stability and resilience of markets (trend-increasing effect, rogue algorithms, direct electronic access of non-regulated firms to trading venues)

The second risk area identified recognises that although HFT does not introduce new market abuse practices, it does allow them to be executed:

- a) on a larger scale and
- b) in a manner more difficult to detect

More investigation is clearly needed to assess the impact of HFT on market abuse. The text advocates the setting up of an advisory committee with ESMA made up of national experts to investigate the link between HFT and the potential for market abuse with a view to increasing its knowledge on the issue and to enable ESMA to inform the Commission of emerging abusive practices which will then be incorporated into the scope of the definition of market manipulation.

The new Market Abuse Framework must also be future proof. For this reason current abusive practices (quote stuffing, layering and spoofing) will be included in delegated acts. These acts will then be updated as a result of ESMA's recommendations on emerging abusive market practices.

¹ OICU-IOSCO, Report on Regulatory Issues raised by the Impact of Technological Changes in Market Integrity and Efficiency, Oct 2011. <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD361.pdf>