Press release

# Market abusers should face jail, say economic affairs MEPs

Committees: Committee on Economic and Monetary Affairs

**Financial market fraudsters across the EU could face jail from next year under tougher EU-wide banking rules approved unanimously today, with one abstention, by the economic and monetary committee in a bid to restore confidence in the Union's financial markets and boost investor protection.**

Alrene McCarthy (S&D, UK), responsible for steering this legislation through Parliament, said: "The EU cannot be seen to be the soft option or a safe haven for perpetrators of market abuse. That is why for the first time we are introducing EU-wide criminal sanctions. The Libor scandal has demonstrated that the culture in the financial sector has not changed and that they cannot be trusted to self-regulate.

“The real lesson to be learnt from this crisis is the need to focus on putting in place rules and sanctions to prevent crises, and not scrambling and reacting after the banks have yet again undermined people’s confidence and trust in the markets."

## Criminal sanctions

The MEPs say market abuse – insider dealing and market manipulation – has the potential to damage individuals, institutions and states. The new rules are intended to curb these activities but they must be backed by tougher criminal sanctions, including prison terms, throughout the EU.

The current big divergences between definitions of offences and the penalties applied for them in different member states mean that market abuse can easily be carried out across borders and fraudsters can operate where the penalties are the most lenient.

To iron out the differences between EU countries, MEPs want to oblige all member states to ensure that maximum jail sentences for the most serious forms of insider dealing or market manipulation are at least five years throughout the EU.

At present, the maximum prison sentences for insider dealing vary from 30 days (in Estonia) to 12 years (in Italy and Slovakia). Maximum jail terms for market manipulation currently range from 30 days (in Estonia) to 15 years (in Slovakia).

The committee advocates maximum prison sentences of at least two years for other types of market abuse.

To ensure that they act as a deterrent, MEPs want the sanctions to be made public and the fraudsters named unless this would jeopardise ongoing official investigations.

Insider dealing and market manipulation should be punishable regardless of whether they were intended or reckless, attempted or committed, say MEPs.

## Definitions of offences

The committee says **insider dealing** offences that merit **five years in prison** arise when the inside information is intentionally used:

- to acquire or dispose of financial instruments;
- to cancel or amend an order;
- to recommend or induce another person possessing the inside information to engage in insider dealing.

It defines **market manipulation** offences that are punishable with a **five-year jail** term as:

- entering into a transaction or placing an order which gives or is likely to give false or misleading signals;
- entering into a transaction that may affect or secure the price of one or several financial instruments;
- providing false or misleading inputs manipulating the calculation of the benchmarks.

MEPs define **market abuse** activities that should be sanctioned by a maximum penalty of at least **two years in jail** as:

- recommendations to acquire or dispose of a financial instrument on the basis of the inside information;
- dissemination through the media, including the internet, of information that gives false or misleading signals, where the person who did it knew or ought to have known that the information was false.
- disclosure of inside information.

**Financial instruments and markets**

The legislation applies to financial instruments, interest rates, currencies, benchmarks, indexes and derivative instruments traded on regulated markets and those traded on trading platforms (MTF, OTF) in at least one Member State.

**Prevention and enforcement**

The committee wants all trading venues to adopt effective and transparent procedures aimed at preventing and detecting abusive practices, such as suspicious transactions or orders.

It says it should be mandatory to exchange information between countries because market abuse can be carried out across borders. It must be possible to trace transactions back to where they originated.

It wants watch dogs to be designated by member states and empowered to seize documents and records of telephone conversations, electronic communications and data traffic records for use as crucial evidence of insider dealing and to establish the identities of those responsible.

The reports on the draft regulation and draft directive were each adopted by 39 votes to 0, with 1 abstention.

*In the chair: Sharon Bowles (ALDE, UK)*

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