









Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) Regulation</p> <p>2023/0076(COD)</p>	Procedure completed
<p>Wholesale energy market: Union's protection against market manipulation</p> <p>Amending Regulation 2011/1227 2010/0363(COD) Amending Regulation 2019/942 2016/0378(COD)</p> <p>Subject</p> <p>2 Internal market, single market</p> <p>2.60 Competition</p> <p>2.60.01 Trade restrictions, concerted practices, dominant positions</p> <p>3.60 Energy policy</p> <p>3.60.03 Gas, electricity, natural gas, biogas</p> <p>3.60.05 Alternative and renewable energies</p> <p>3.60.15 Cooperation and agreements for energy</p> <p>Legislative priorities</p> <p>Joint Declaration 2023-24</p>	

Key players				
European Parliament	Committee responsible	Rapporteur	Appointed	
	<p>ITRE Industry, Research and Energy</p>	<p> CARVALHO Maria da Graça</p> <p>Shadow rapporteur</p> <p> TOIA Patrizia</p> <p> GAMON Claudia</p> <p> DALUNDE Jakop G.</p> <p> KRASNODEBSKI Zdzisław</p> <p> BORCHIA Paolo</p> <p> MESURE Marina</p>		30/03/2023
	Committee for opinion	Rapporteur for opinion	Appointed	
	<p>BUDG Budgets</p>	<p> VAN OVERTVELDT Johan</p>		28/03/2023
	ECON Economic and Monetary Affairs			20/04/2023

IMCO [Internal Market and Consumer Protection](#)

The committee decided not to give an opinion.

Council of the European Union
European Commission

Commission DG

Commissioner

European Economic and Social Committee
European Committee of the Regions

[Energy](#)

SIMSON Kadri

Key events			
14/03/2023	Legislative proposal published	COM(2023)0147	Summary
29/03/2023	Committee referral announced in Parliament, 1st reading		
07/09/2023	Vote in committee, 1st reading		
07/09/2023	Committee decision to open interinstitutional negotiations with report adopted in committee		
08/09/2023	Committee report tabled for plenary, 1st reading	A9-0261/2023	Summary
11/09/2023	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
13/09/2023	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)		
15/01/2024	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE757.972 GEDA/A/(2024)000013	
28/02/2024	Debate in Parliament		
29/02/2024	Results of vote in Parliament		
29/02/2024	Decision by Parliament, 1st reading	T9-0116/2024	Summary
18/03/2024	Act adopted by Council after Parliament's 1st reading		
11/04/2024	Final act signed		
17/04/2024	Final act published in Official Journal		

Technical information	
Procedure reference	2023/0076(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation

	Amending Regulation 2011/1227 2010/0363(COD) Amending Regulation 2019/942 2016/0378(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 194-p2; Treaty on the Functioning of the EU TFEU 194-p3
Other legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	European Economic and Social Committee European Committee of the Regions
Stage reached in procedure	Procedure completed
Committee dossier	ITRE/9/11551

Documentation gateway					
Legislative proposal		COM(2023)0147	14/03/2023	EC	Summary
Document attached to the procedure		SWD(2023)0058	14/03/2023	EC	
Committee draft report		PE747.031	12/05/2023	EP	
Amendments tabled in committee		PE749.145	25/05/2023	EP	
Amendments tabled in committee		PE749.146	25/05/2023	EP	
Economic and Social Committee: opinion, report		CES1713/2023	14/06/2023	ESC	
Committee opinion	ECON	PE749.178	29/06/2023	EP	
Specific opinion	BUDG	PE752.801	04/09/2023	EP	
Committee report tabled for plenary, 1st reading/single reading		A9-0261/2023	08/09/2023	EP	Summary
Coreper letter confirming interinstitutional agreement		GEDA/A/(2024)000013	20/12/2023	CSL	
Text agreed during interinstitutional negotiations		PE757.972	20/12/2023	EP	
Text adopted by Parliament, 1st reading/single reading		T9-0116/2024	29/02/2024	EP	Summary
Draft final act		00103/2023/LEX	11/04/2024	CSL	

Additional information		
Research document	Briefing	12/01/2024

Final act
Regulation 2024/1106 OJ OJ L 17.04.2024 Summary

Wholesale energy market: Union's protection against market manipulation

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

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

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

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

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

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

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

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

CONTENT: the amendments concerning REMIT Regulation:

- adapt the scope of REMIT to current and evolving market circumstances by inter alia extending the scope of data reporting to new electricity balancing markets and coupled markets as well algorithmic trading;
- adjust the definition of market manipulation to include any other behaviour relating to wholesale energy products which: (i) gives, or is likely to give, false or misleading signals as to the supply of, demand for, or price of wholesale energy products; (ii) secures, or is likely to secure, by a person, or persons acting in collaboration, the price of one or several wholesale energy products at an artificial level, or (iii) employs a fictitious device or any other form of deception or contrivance which gives, or is likely to give, false or misleading signals regarding the supply of, demand for, or price of wholesale energy products;
- ensures stronger, more established and regular cooperation between energy and financial regulators, including ACER and ESMA regarding derivative wholesale energy products;
- improve process for the collection of inside information and market transparency by enhancing the oversight of ACER and adjustment of inside information definition. Amendments to REMIT Regulation;
- enhance supervision of reporting parties such as registered reporting mechanisms and persons professionally arranging transactions;
- improve data sharing possibilities between ACER, relevant national authorities and the Commission. REMIT amendment;
- strengthen the role of ACER in investigations of significant cross-border cases to fight against the REMIT breaches;
- set out the framework for harmonisation of fines set by regulatory authorities at national level.

Wholesale energy market: Union's protection against market manipulation

The Committee on Industry, Research and Energy adopted the report by Maria da Graça CARVALHO (EPP, PT) on 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.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

Sensitive data

The report noted that 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.

Registered Reporting Mechanisms (RRMs)

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 RRMs should be authorised by the Agency. The RRMs should at all times comply with the conditions for authorisation and data protection law. The Agency should also establish a register of all RRMs in the Union. The Agency should have the power to withdraw such authorisation in certain cases. The Agency's supervisory powers over RRMs should be extended to include the power to impose fines and periodic penalty payments and to issue public notices.

Price assessments and benchmarks

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.

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.

Investigation of breaches

The investigation of breaches of this Regulation with a cross-border dimension should be carried out through a uniform process at Union level. 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.

Penalties

A uniform and stronger framework to prevent market manipulation and other breaches of Regulation (EU) No 1227/2011 in the Member States is necessary. Member States should 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.

By 1 June 2025, the Commission should 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 should submit a report to the European Parliament and to the Council.

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.

Report and review

The amended text stated that by 1 June 2027, and every five years thereafter, the Commission, in consultation with relevant stakeholders, should 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.

Based on those assessments, the Commission should draw up a report and submit it without undue delay to the European Parliament and to the Council. The report should be accompanied, where appropriate, by a legislative proposal.

Wholesale energy market: Union's protection against market manipulation

The European Parliament adopted by 440 votes to 32, with 31 abstentions, a 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.

The proposed Regulation introduces new measures to better protect the EU wholesale energy market and better protect the energy bills of European businesses and households from potential short-term market price fluctuations. It amends Regulation (EU) No 1227/2011 in order to ensure more transparency and increase monitoring capabilities, thereby contributing to the stabilisation of energy prices and the protection of consumers, and to ensure more effective investigation and enforcement of potential cross-border market abuse cases by addressing shortcomings identified in the current framework.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the Commission's proposal as follows:

Information made available to market players

Where information shared with the European Agency for the Cooperation of Energy Regulators is not, or is no longer, sensitive from a commercial or security point of view, the Agency should be able to make that information available to market participants and to the wider public in an accessible manner with a view to contributing to enhanced knowledge about the wholesale energy markets. This should include the possibility for the Agency to publish aggregated information on organised marketplaces (OMPs), inside information platforms (IIPs) and registered reporting mechanisms (RRMs) in accordance with applicable data protection law with the aim of improving transparency of wholesale energy markets and provided that it does not distort competition on those energy markets.

Authorisation and supervision of inside information platforms (IIPs) and registered reporting mechanisms (RRMs)

An IIP should operate only after the Agency has assessed whether that IIP complies with the requirements set out in the Regulation and has authorised its operation. The Agency should establish a register of IIPs which it has authorised. The register of IIPs should be publicly available and should contain information on the services for which the IIP is authorised. The Regulation specifies the elements that must be included in inside information made public by a IIP.

An IIP whose authorisation has been withdrawn by the Agency should inform all relevant market participants and should ensure orderly substitution including the transfer of data to other IIPs, chosen by market participants, and the redirection of reporting flows to other IIPs.

The operation of an RRM should be subject to prior authorisation by the Agency. The Agency should 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.

Tasks and powers of the Agency with regard to LNG price assessments and LNG benchmarks

The Agency should produce and publish a daily LNG price assessment and a daily LNG benchmark. LNG market participants should submit daily to the Agency the LNG market data, free of charge, by means of the reporting channels established by the Agency, 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 (18:00 CET). A provision on the quality of LNG market data has been introduced.

Market participants, or a person or an entity acting on their behalf, should provide the Agency with a record of wholesale energy market transactions, including orders to trade. The information reported should 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 intermediate or final beneficiaries of the transaction and any other relevant information.

Reference centre

By 12 months from the date of entry into force of this amending Regulation, the Agency should develop a reference centre containing information on Union wholesale energy market data. The Agency should make public, by means of the Reference Centre, parts of the information which it possesses, provided that commercially sensitive information on individual market participants, individual transactions or individual marketplaces are not disclosed and cannot be identified from the information made public.

On-site inspections by the Agency

The Agency should prepare and conduct on-site inspections in close cooperation and in coordination with the relevant authorities of the Member State concerned. It may conduct all necessary on-site inspections at the premises of the persons subject to the investigation where business records could be kept. It may by decision carry out an on-site inspection in private premises of directors.

Request for information

At the Agency's request any person shall provide to it the information necessary for the purpose of fulfilling the Agency's obligations. The Agency may interview and take statements from any person who consents to being interviewed for the purpose of collecting information relating to the subject-matter of an investigation. The Agency may record the answers.

Periodic penalty payments

Under the amended Regulation, the Agency should, by means of a decision, impose a periodic penalty payment in respect of a person subject to an investigation in order to compel that person to submit to an on-site inspection ordered by a decision or to supply the information requested by a decision. Periodic penalty payments should be effective and proportionate. To that effect, the amount of a periodic penalty payment should be, in the case of legal persons, 3 % of the average daily turnover in the preceding business year or, in the case of natural persons, 2 % of the average daily income in the preceding calendar year. A periodic penalty payment may be imposed for a period of no more than six months from the notification of the Agency's decision.

Report and review

By 1 June 2027, and every five years thereafter, the Commission should, after consulting relevant stakeholders, 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 should draw up a report and submit it without undue delay to the European Parliament and to the Council. Those reports should be accompanied, where appropriate, by legislative proposals.

Wholesale energy market: Union's protection against market manipulation

PURPOSE: to improve the Union's protection against market manipulation on the wholesale energy market.

LEGISLATIVE ACT: Regulation (EU) 2024/1106 of the European Parliament and of the Council amending Regulations (EU) No 1227/2011 and (EU) 2019/942 as regards improving the Union's protection against market manipulation on the wholesale energy market.

CONTENT: in order to enhance the public's trust in functioning wholesale energy markets and to protect the Union effectively against market abuse, this regulation amending Regulation (EU) No 1227/2011 ensures further transparency and increases monitoring capacities, thereby contributing to the stabilisation of energy prices and consumer protection, as well as to ensure more effective investigation and enforcement of cases of potential cross-border market abuse addressing the shortcomings identified in the current framework.

Market manipulation

For example, the following will be considered as market manipulation:

- entering into any transaction, or issuing, modifying or withdrawing any order to trade or engaging in any other behaviour relating to wholesale energy products which gives, or is likely to give, false or misleading signals as to the supply of, demand for, or price of wholesale energy products;
- disseminating information through the media, including the internet, or by any other means, which gives, or is likely to give, false or misleading signals as to the supply of, demand for, or price of wholesale energy products;
- 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.

Authorisation and supervision of inside information platforms (IIP)

An IIP will operate only after the Agency has assessed whether that IIP complies with the requirements and has authorised its operations. An IIP will have adequate policies and arrangements in place to make public the required inside information as close to real time as is technically possible, on a reasonable commercial basis. The inside information will be made available and easily accessible for all purposes free of charge, including through a website or an application programming interface. The IIP will efficiently and consistently disseminate such information in a manner that ensures prompt access to the inside information, on a non-discriminatory basis.

A market participant that engages in algorithmic trading will put 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 otherwise function in a way that may create or contribute to a disorderly market.

The operation of a Registered Reporting Mechanism (RRM) will also be subject to prior approval by ACER. ACER will issue an approval as RRM to parties when the RRM is established in the Union.

Market players established or resident in a third country

Where a market participant that is not resident or established in the Union is active within the Union, it should designate a representative in the Union. The representative should be explicitly designated by a written mandate of the market participant to be authorised to act on its behalf.

Tasks and powers of the Agency

The Agency will produce and publish a daily LNG price assessment and a daily LNG benchmark. LNG market participants will submit daily to the Agency the LNG market data, free of charge, by means of the reporting channels established by the Agency, 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 (18:00 CET).

The new regulation gives the Agency the right to investigate cases with a cross-border dimension, where at least two Member States are affected.

The national regulatory authorities will be able to object to the exercise of ACER's investigative powers where an investigation has been formally initiated or an investigation has been carried out on the basis of the same facts. The authorities will have a maximum of three months to formulate their objection.

Under the new regulation, ACER will be empowered to carry out any necessary investigations by conducting on-site inspections, by taking statements, as well as by issuing requests for information. It will be authorised to collect statements.

ACER will be able to take decisions regarding on-site inspections, requests for information and authorisations or the withdrawal of authorisations for insider information platforms and registered reporting mechanisms.

The Agency will regularly inform the European Parliament and the Council of its activities regarding cross-border investigations. For that purpose, the Agency will submit summaries of its investigation reports to the European Parliament and to the Council on a regular basis.

Penalties

ACER will have the power to impose periodic penalty payments in order to ensure compliance with decisions concerning on-site inspections and requests for information. The amount of a periodic penalty payment will be equivalent, in the case of legal persons, to 3% of the average daily turnover in respect of the previous financial year or, in the case of natural persons, to 2% of the average daily income in the preceding calendar year.

The power to impose fines for infringements of the Regulation or for breaches of the prohibitions or material obligations referred to therein will remain with the Member States. In the case of legal persons, administrative fines will be of a maximum amount that can vary from at least 1% of the total annual turnover in the previous financial year to at least 15%, depending on the type of infringement.

ENTRY INTO FORCE: 7.5.2024.

Transparency				
TOIA Patrizia	Shadow rapporteur	ITRE	27/11/2023	Eni S.p.A.
CARVALHO Maria da Graça	Rapporteur	ITRE	06/10/2023	Europex - Association of European Energy Exchanges
CARVALHO Maria da Graça	Rapporteur	ITRE	14/09/2023	Federal Network Agency
DALUNDE Jakop G.	Shadow rapporteur	ITRE	19/07/2023	CEER
TOIA Patrizia	Shadow rapporteur	ITRE	29/06/2023	Eurelectric aisbl
DALUNDE Jakop G.	Shadow rapporteur	ITRE	27/06/2023	Europex - Association of European Energy Exchanges 50679663522-75
DALUNDE Jakop G.	Shadow rapporteur	ITRE	09/06/2023	ACER
KOVA?ÍK Ond?ej	Rapporteur for opinion	ECON	18/05/2023	CEZ, a.s.
TOIA Patrizia	Shadow rapporteur	ITRE	12/05/2023	Europex - Association of European Energy Exchanges
DALUNDE Jakop G.	Shadow rapporteur	ITRE	11/05/2023	Nord Pool AS 613307348988-23

HOHLMEIER Monika	Member	27/11/2023	HEINZ GLAS GmbH & Co. KGaA
GRUDLER Christophe	Member	26/07/2023	Commission de régulation de l'énergie