

Benchmarks, price reporting and market integrity

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

Commodity prices are determined in two ways. On the futures exchanges, prices are formed transparently through trading in standardised contracts. In the physical markets, where most transactions are bilateral and the goods vary in quality, location and timing, prices are often set by reference to benchmarks published by price reporting agencies. These agencies assess the prevailing market price on the basis of the transactions, bids and offers reported to them by market participants.¹ The benchmarks determine the value of physical contracts worth many times the volume of the transactions on which they are based.

The dependence of physical contracts on benchmarks creates an incentive for manipulation. A trader that holds a large position whose value depends on a benchmark can profit by influencing the assessment through the transactions, bids and offers it reports. The market manipulation to which Glencore pleaded guilty in the United States in 2022 was of this kind: between 2011 and 2019, its traders manipulated the benchmark prices for fuel oil in the ports of Los Angeles and Houston in order to benefit the company's positions.² Swiss law addresses market manipulation primarily in the context of securities traded on Swiss trading venues, under the Financial Market Infrastructure Act, which leaves physical commodity benchmarks largely outside its scope.³ The traders of Zug are therefore exposed principally to the market abuse regimes of the jurisdictions where the benchmarks and the related futures markets are located. Above all, these are the United States, under the Commodity Exchange Act and the enforcement of the Commodity Futures Trading Commission, and the European Union and the United Kingdom, under their market abuse regulations, which extend to spot commodity contracts where they affect related financial instruments.⁴ The practitioner advising a trader in Zug must ensure that the trader's compliance programme covers the reporting of transactions to price reporting agencies and the conduct of its traders in the physical markets.

1 Notes

1. IOSCO, "Principles for Oil Price Reporting Agencies – Final Report", 5 October 2012, [iosco.org](https://www.iosco.org) (IOSCOPD391): names Platts, Argus and ICIS as the major PRAs and sets the order of priority of the data used in assessments: concluded and reported transactions, then bids and offers, then other market information. ↩
2. US Department of Justice, 24 May 2022: manipulation of fuel oil benchmark prices at the ports of Los Angeles and Houston from January 2011 to August 2019; criminal fine of \$341.2 million and forfeiture of \$144.4 million. ↩
3. Financial Market Infrastructure Act (FinfraG, SR 958.1), Arts. 143 (market manipulation, supervisory law) and 155 (price manipulation, criminal law), [fedlex.admin.ch](https://www.fedlex.admin.ch) (consolidated version of 1 January 2020): both provisions concern securities admitted to trading on a trading venue in Switzerland. The absence of a specific Swiss regime for physical commodity benchmarks is the author's assessment. ↩
4. 7 U.S.C. § 9 ("Prohibition regarding manipulation and false information"; manipulative or deceptive devices in connection with swaps and contracts of sale of any commodity in interstate commerce or for future delivery) and 7 U.S.C. § 13(a)(2) (manipulation or attempted manipulation of the price of any commodity a felony), [law.cornell.edu](https://www.law.cornell.edu); 17 CFR § 180.1 (CFTC, prohibition of manipulative and deceptive devices), [law.cornell.edu](https://www.law.cornell.edu); Regulation (EU) No 596/2014 (MAR), Art. 2(2)(a), eur-lex.europa.eu: Arts. 12 and 15 also apply to spot commodity contracts that are not wholesale energy products where the transaction, order or behaviour has or is likely or intended to have an effect on the price or value of a financial instrument. UK MAR (the retained version of the regulation) was not separately checked. ↩

For general information only. This article does not constitute legal or tax advice, does not replace advice on an individual case and creates no lawyer-client relationship. It reflects the legal position as of September 2026.

Online version: helveticaregister.com/zug-benchmarks-price-reporting-and-market-integrity