

Having in view the numerous inquiries received by OPCOM SA from the companies registered to the administrated centralized markets, or from companies that are looking to become participants to the centralized markets, regarding their reporting responsibilities under the EMIR, OPCOM SA informs the market participants on the following aspects:

Regulation (EU) No 648/2012 (EMIR), which aim is to strengthen the supervisory framework of the financial sector of the European Union, prescribes among others reporting obligations deriving from the "financial instruments" and "derivative contracts" concluded by the parties.

According to the definition laid down in Article 2 (5) of EMIR "derivative contract" means – within the frame of the financial instruments – a financial instrument as set out in points (4) to (10) of Section C of Annex I (list of financial instruments) to Directive 2004/39/EC (MiFID) as implemented by Article 38 and 39 of Regulation (EC) No 1287/2006.

According to the definition laid down in Article 4 (15) of MIFID:

'Multilateral trading facility (MTF)' means a multilateral system, operated by an investment firm or a market operator, which brings together multiple third-party buying and selling interests in financial instruments – in the system and in accordance with non-discretionary rules – in a way that results in a contract in accordance with the provisions of Title II.

'Regulated market' means a multilateral system operated and/or managed by a market operator, which brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments – in the system and in accordance with its nondiscretionary rules – in a way that results in a contract, in respect of the financial instruments admitted to trading under its rules and/or systems, and which is authorised and functions regularly and in accordance with the provisions of Title III.

OPCOM SA administrates and operates the centralized markets for electricity, natural gas and green certificates according to the licence issued lawfully by the Romanian National Regulatory Authority in the Energy Field (ANRE), as well as according with the regulations issued by ANRE in accordance with the Law No. 220/2008 provisions, therefore contracts concluded on these markets according to the legal and regulatory framework in force at present – do not constitute financial instruments according to MiFID hence do not belong to the category of "derivative contracts" according to EMIR. At the same time, the market places administrated by OPCOM are not included in the multilateral systems that are subject of MIFID provisions.

Based on the foregoing, currently OPCOM SA and the companies registered as market participants to the markets administrated by OPCOM do not have specific reporting obligations to trade repositories or other obligations under the EMIR.