

**EUROPEAN COMMISSION****DIRECTORATE GENERAL INTERNAL MARKET AND SERVICES****FINANCIAL MARKETS - Financial markets infrastructure****Mr. Patrick Pearson – Head of Unit**

Subject: EMIR - Notification of rules on penalties according to Article 12(2) and of competent authority for CCPs under Article 22 (1)

Dear Mr. Pearson,

Article 12(1) of Regulation (EU) no. 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories (EMIR) requires Member States to lay down the rules on penalties applicable to infringements of the clearing, reporting and risk mitigation of OTC derivatives requirements and to take all measures necessary to ensure that they are implemented. In accordance with Article 12(2) of EMIR, please note that the Romanian Financial Supervisory Authority (FSA) has approved **Regulation no. 6/2013 issued in accordance with the provisions of Article 12(1) of Regulation (EU) no. 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories**. Please find enclosed the English translation of FSA Regulation no. 6/2013.

FSA Regulation no. 6/2013 establishes penalties applicable to financial counterparties defined under Article 2 point 8 of EMIR, which are authorized and supervised by FSA (i.e. all the entities specified under Article 2 point 8 of EMIR, except for credit institutions authorised in accordance with Directive 2006/48/EC), central counterparties, and market/system operators that operate trading venues. In accordance with Article 2 point 13 of EMIR, National Bank of Romania (NBR) is the competent authority for credit institutions.

Romanian Financial Supervisory Authority

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With regard to the penalties applicable to non-financial counterparties under Article 12(1) of EMIR, we would like to mention that FSA is to be designated competent authority for Romanian non-financial counterparties under Article 10(5) of EMIR. However, this requires the amendment of the primary legislation, and, even though FSA has initiated the necessary measures in this respect, the process has not been finalized yet. Following the amendment of the primary legislation, FSA will adequately amend Regulation no. 6/2013 in order to include penalties applicable to non-financial counterparties. FSA will then immediately notify the European Commission.

Please note that FSA is the competent authority responsible for carrying out the duties resulting from EMIR for the authorisation and supervision of CCPs established in Romania, in accordance with Article 22(1) of EMIR. Given Article 14(5) of EMIR, FSA has approved *Regulation no. 3/2013 on the authorization and operation of CCPs issued in accordance with Regulation (EU) no. 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories.*

Yours sincerely,

MIRCEA URSACHE


VICEPRESIDENT