

## Chapter 26

# Commodities exchange

## 1. General

The legal framework enacted for commodities exchange, in line with the specific European regulations it transposes, reveals several resemblances with the legislation in the field of securities, regulated markets and financial investment services.

## 2. Main regulations

- Law no. 357/2005 regarding commodities exchanges, amended to date (“Law no. 357/2005 “ )
- Law no. 297/2004 regarding the capital market, amended to date (“Law no. 297/2004”)

Since certain aspects related to commodities exchanges are also regulated via Law no. 297/2004 (such as the traders and certain financial instruments subject to transactions on commodities exchanges) the regulatory authority of the capital market – The National Securities Commission - is, to a certain extent, involved in the enforcement process of Law no. 357/2005.

## 3. Main features of a commodities exchange

Commodity exchanges are organized as joint-stock companies and operate under the supervision of the Romanian Chamber of Commerce and Industry. The commodities exchanges purpose is to manage public interest markets, enabling their members and clients to perform commodities markets’ operations, ranging from transactions with certain goods and warrants to sale and purchase of commercial receivables.

Commodities exchanges enjoy a self-regulatory power, based on the Law no. 357/2005, under which they may issue internal regulations with regard to the markets they are managing and the activities performed by their clients and members, as well as to their own enforcement means. The managing board of the Romanian Chamber of Commerce and Industry must review draft regulations before being adopted.

The share capital for a commodity exchange must represent the equivalent in RON of 1,000,000 Euros and must be subscribed and paid at the time of incorporation. Shareholders can be only legal entities.

The board of directors of a commodity exchange has broad powers, such as:

- a) drafting the internal regulations and submitting them to the general shareholders meeting for approval;
- b) approving the fees payable to the exchange for all registered offers and transactions;

- c) supervising the conduct of exchange members;
- d) suspending the transaction rights of the exchange members;
- e) suspending or excluding a brokers from performing transactions.

## 4. Brokers and brokerage companies

Brokers are individuals, professionally certified by the board of directors of the commodity exchange and employed by a brokerage company.

Brokerage companies, acting through their brokers, are negotiating offers, performing transactions, concluding contracts and are liable for transmitting all information regarding the delivery of commodities and the payment of the price.

## 5. Commodity exchange transactions

In order to reach the goal they were established for, the commodities exchanges develop spot markets and derivatives markets, wherein the following are traded:

- a) Tangible replaceable goods, such as: cereals, oil, metals, standardized services and other similar goods, approved by the board of directors of the commodities exchange;
- b) Derivatives, having goods as support assets, representative titles, financial assets and any other support assets approved by CNVM;
- c) Commercial receivables.

### 5.1. Spot markets

Spot markets are exclusively developed by the commodity exchanges.

The types of contracts traded on such markets are spot contracts and forward contracts with standardized clauses, the only negotiable element being the price.

### 5.2. Derivatives markets

Derivatives markets are specialized markets, operated by a commodities exchange, wherein derivatives are negotiated and traded in an organized, regulated manner.

The following are deemed as derivatives: future contracts, option contracts, other similar instruments qualified as such by CNVM, whose support assets include goods, representative titles or financial assets.