



**Disclosure of Public Information (Article 38 of EMIR and
Article 61 of RTS 153/2013)**

[14.JUL.2022]

The purpose of this document is to show evidence on OMIClear's compliance with the rules laid down in **article 38 (Transparency)** of Regulation (EU) No 648/2012 of the European Parliament and of the Council, of 4 July 2012, hereafter EMIR and in **article 61 (Information to be publicly disclosed)** of Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties (RTS 153/2013).

Table 1 – Details on OMIClear's compliance to Article 38 (Transparency) of EMIR

Par. Art.38	Content of Article 38 of EMIR	How OMIClear complies with EMIR transparency rules (item-by-item)
1.	A CCP and its clearing members shall publicly disclose the prices and fees associated with the services provided. They shall disclose the prices and fees of each service provided separately, including discounts and rebates and the conditions to benefit from those reductions.	<ul style="list-style-type: none"> ↻ All the fees (including discounts and rebates) applied by OMIClear within the scope of its clearing and settlement services are included in Instruction A02/2014 - Price List, which is disclosed in its public website¹.
	A CCP shall allow its clearing members and, where relevant, their clients separate access to the specific services provided.	<ul style="list-style-type: none"> ↻ The requisites to become a participant of OMIClear are clearly stated in the following rules available to download in its website: <ul style="list-style-type: none"> • Clearing Members' access: see Instruction B02/2014 - Requirements for Clearing Members; • Registration Agents' access: see Instruction B05/2014 - Requirements for Registration Agents; • Financial and Physical Agents' access - see Instruction A03/2014 - Requirements for Settlement Agents. ↻ The requisites to become Clearing Member and Financial Settlement Agent are the same for all the Services provided by OMIClear (both Power and Natural Gas Services). ↻ The requisites applicable to Registration Agents and Physical Settlement Agents for the Energy Service include common conditions as well as some specific requirements depending on the commodity (power or natural gas) on which the entity participates.
	A CCP shall account separately for costs and revenues of the services provided and shall disclose that information to the competent authority.	<ul style="list-style-type: none"> ↻ The financial statements of OMIClear segregates the costs and revenues resulting from the service provided. These statements are disclosed both to the public (through its website) and to the competent authority (CMVM - Portuguese Securities Market Commission).

¹ OMIClear's public website: www.omiclear.eu

<p>2.</p>	<p>A CCP shall disclose to clearing members and clients the risks associated with the services provided.</p>	<p>☞ OMIClear advises its Clearing Members and respective clients that the use of its clearing services exposes them to financial loss, including, but not limited to:</p> <p>a) <u>Clearing Member default</u>: non-defaulting Clearing Members must contribute to the Clearing Fund (pre-funded resources) and can also be subject to a 'Clearing Fund Additional Responsibility'² (not prefunded), as part of OMIClear's default waterfall. For further information please refer to Instructions B07/2014 - Clearing Fund and B12/2014 - Default Waterfall.</p> <p>In addition, Clearing Members may be subject to loss allocation (positions tier up procedure), as described in Instruction B18/2014 - Procedures in Case of Default.</p> <p>b) <u>Custodian bank default</u>: the eligible custodian banks on which OMIClear is allowed to deposit the cash collateral collected from its Clearing Members and clients with collateral segregation are identified in its Investment Policy, summarized in the public website: https://www.omiclear.pt/en/investment-policy</p> <p>c) <u>Termination of OMIClear's services</u>: if the activity of the services provided by OMIClear is closed, the Clearing Members must close out their positions within 20 clearing days. For further information please refer to article 70 (Termination clause) of OMIClear's Rulebook.</p> <p>The Rulebook and Instructions mentioned in the subparagraphs a) and c) are available to download on the website.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Disclaimer: The above description is a non-exhaustive list of the financial losses to which Clearing Members and/or their clients may be exposed. Clearing Members and clients cannot rely on this disclosure and should undertake their own risk assessment and analysis of OMIClear's rules and associated documentation and processes.</p> </div>
<p>3.</p>	<p>A CCP shall disclose to its clearing members and to its competent authority the price information used to calculate its end-of-day exposures to its clearing members.</p> <p>A CCP shall publicly disclose the volumes of the cleared transactions for each class of instruments cleared by the CCP on an aggregated basis.</p>	<p>☞ The reference prices and indices used to calculate the end-of-day exposures of OMIClear's Clearing Members are disclosed in its website and clearing platform³. The methodology to determine these prices and indices are included Instruction B11/2014 - Reference Prices available to download on the website.</p> <p>☞ The cleared volumes and open interest associated to Energy Services are updated by OMIClear on a daily basis and available to download in its public website.</p>

² The 'Additional Responsibility' contribution consists of an assessment power tool of OMIClear. Contrary to the clearing fund contribution this responsibility of the Clearing Member is not covered with pre-funded resources.

³ OMIClear's clearing platform – the MiClear system is accessible by registered users from its clients: Registration Agents (usually called "NCM – Non-Clearing Members"), clients of Registration Agents, Clearing Members, Financial Settlement Agents and Physical Settlement Agents.

<p>4.</p>	<p>A CCP shall publicly disclose the operational and technical requirements relating to the communication protocols covering content an message formats it uses to interact with third parties, including the operational and technical requirements referred to in Article 7.</p>	<p>☞ Currently OMIClear have in place communication protocols with several counterparties. For each one of them OMIClear discloses through its website the operational and technical features implemented to ensure the interaction with the CCP, in particular:</p> <ul style="list-style-type: none"> • Market Operators: regarding the Energy Services, please refer to the registration process of transactions in OMIClear coming from the markets managed by OMIP, MIBGAS or MIBGAS Derivatives in: https://www.omiclear.pt/en/information-systems • Trade Repository: the rules and procedures regarding the EMIR reporting obligation and the service provided by OMIClear to its clients are included in the 'EMIR Reporting Operational Guide' available to download in https://www.omiclear.pt/en/operational-documents • TARGET2 payment settlement system: the rules concerning the financial settlement process, which involves a daily communication with TARGET2 payment system are described here: https://www.omiclear.pt/en/financial-settlement • OMIE power spot market: the rules concerning the notification of positions under delivery on power derivatives contracts with settlement by physical delivery are included in Instruction B13/2014 - Settlement in the Delivery Period. • Enagás GTS: the rules concerning the notification of positions under delivery on natural gas physical futures are included in Instruction B19/2017 - Notification of Natural Gas Physical Positions to the System Operators.
<p>5.</p>	<p>A CCP shall publicly disclose any breaches by clearing members of the criteria referred to in Article 37(1) and the requirements laid down in paragraph 1 of this Article, except where the competent authority, after consulting ESMA, considers that such disclosure would constitute a threat to financial stability or to market confidence or would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved.</p>	<p>☞ So far there were no breaches of the Clearing Members' admission criteria referred to in article 37(1) of EMIR. In case such occurred OMIClear would evaluate with its competent authority (CMVM) the impact of disclosing such information to the market.</p>

Table 2 – Details on OMIClear’s compliance to Article 61 (Information to be publicly disclosed) of RTS 153/2013

Par. Art.61	Content of Article 61 of RTS 153/2013	How OMIClear complies with RTS (item-by-item)
1.	<p>A CCP shall publicly disclose the general principles underlying its models and their methodologies, the nature of tests performed, with a high level summary of the test results and any corrective actions undertaken.</p>	<ul style="list-style-type: none"> ➤ OMIClear’s testing programs are a core part of OMIClear’s risk management framework to ensure that it can successfully fulfil its role of central counterparty (CCP) under a wide range of plausible scenarios and that its margin system is producing the expected results. More information on the testing programs implemented by OMIClear are described here: https://www.omiclear.pt/en/test-model ➤ A high-level summary of the back tests and stress tests results and corrective measures undertaken are available in the above mentioned link.
2.	<p>A CCP shall make available to the public key aspects of its default procedures, including:</p> <ul style="list-style-type: none"> (a) the circumstances in which action may be taken; (b) who may take those actions; (c) the scope of the actions which may be taken, including the treatment of both proprietary and client positions, funds and assets; (d) the mechanisms to address a CCP’s obligations to non-defaulting clearing members; (e) the mechanisms to help address the defaulting clearing member’s obligations to its clients. 	<ul style="list-style-type: none"> ➤ OMIClear provides a summary of the main default management procedures in its website: https://www.omiclear.pt/en/default-management ➤ For further information, please download OMIClear Rulebook and Instructions A09/2014 – Defaults, B12/2014 – Default Waterfall and B18/2014 – Procedures in Case of Default.