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ECONOMIC AND LAW ANALYSIS OF DERIVATIVES

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Abstract. The article according sensu stricto defined the concept of "derivatives" as negotiable instruments in the form of aleatory bilateral contracts on the underlying assets, and suggested areas of improvement of legislation of Ukraine on the legal

definition of instruments to restore the value of both state warrant and the adoption of regulations that determine the content and morphology derivatives in accordance with the formal European law.

Key words: *derivative, derivative financial instrument, underlying asset, negotiable.*

The financial market during the last decades have had the high rate of introduction of financial innovations, that led to diffusion of types of financial instruments, in particular derivatives, constructions of which in some cases are quite difficult to identify as a certain type of financial instrument and incomplete regulation of their circulation results in initiation or catalyzation of instability on financial markets.

Aim of the article is determination of content and scope of concept "derivatives" for clear authentication of financial instruments as derivatives that will provide a basis for application of stabilizing regulating mechanisms of economic and administrative character.

On the basis of the conducted economic and law analysis it is suggested to determine derivatives as aleatory contractual instruments on underlying assets which circulate at the market, and it distinguishes them from securities which are issuer's instruments.

Negotiability, as a main sign (feature) of all market financial instruments, is determined for derivatives on the basis of presence of intercommunication

with a underlying asset and possibility at any time to set a price of derivative and to close a derivative contract based on the making the opposite transaction.

On the basis of the European and Ukrainian law analysis with regard to circulation of *sensu lato* derivatives it is offered: 1) making changes to the legislation about derivative securities in Ukraine, taking into account Polish experience, to join fund warrants and certificates of option in one type of derivative securities - "warrants" (extending content of this instrument), and also to substitute a term "state derivatives" by "state warrant", that will allow clearly to define legal status of value recovery instruments; 2) taking into account present legislative suggestions to include credit notes to derivative securities, to enter a concept "the structural financial instruments (products)", which will represent a separate group of securities which are created as a result of securitization, including credit notes, asset-backed securities (ABS) etc; 3) to make determination of types and classes of derivatives in accordance with the classification in the normatively-legal documents of EU.

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