

**ON-DEMAND LENDING GUARANTEE FUND RULES****SECTION 1  
GENERAL PROVISIONS****§ 1**

1. These rules, hereinafter referred to as the “Rules”, define the procedures for the formation and use of the fund which guarantees the proper performance of obligations concerning the return of on-demand loans concluded in the negotiated lending system (“Fund”).
2. KDPW\_CCP may manage the assets of the Fund.
3. Specific deadlines described in these Rules shall be used according to their definition in the Rules of Transaction Clearing (organised trading).
4. The provisions of § 6 of the Rules of Transaction Clearing (organised trading) shall be used to determine and calculate the deadlines set in the Rules.

**§ 2**

1. The Fund guarantees the performance of obligations arising from an on-demand loan concluded with the intermediation of the Central Securities Depository of Poland in the negotiated lending system within the scope of the return of loaned securities and the return of the required amount of collateral provided by the counterparties to the loan according to the provisions of the Rules of the Central Securities Depository of Poland described in Article 50 of the Law on trading in financial instruments and the performance of obligations arising from non-execution or undue execution of transactions to such extent.
2. The Fund is formed from contributions of participants holding clearing member status within the scope of on-demand loans referred to in subpara. 1.
3. The Fund consists of the basic resource and the reserve resource.
4. The Fund shall secure the performance of obligations arising from the return of on-demand loans concluded in the negotiated lending system under extreme but plausible market conditions, according to Appendix 1 to the rules.

**§ 3**

1. The Fund may be used for the purposes of covering losses which exceed losses that are to be covered with required margins, in the cases defined in the Rules of Transaction Clearing (organised trading), including in particular:
  - 1/ to cover the differences between the price of securities, if any, between a loan guaranteed by the Fund whose settlement has been suspended and their purchase or sale, as well as the costs incurred to perform that purchase or sale, in instances where, in order to eliminate the settlement suspension of a transaction, securities are purchased or sold in order that the participant being the other clearing

- counterparty who has not caused the settlement to be suspended may receive payment,
- 2/ to meet the cash payment owed by the participant holding clearing member status which has not fulfilled the cash payment obligations arising from the return of a loan guaranteed by the Fund,
  - 3/ to meet the cash payment towards the participant which has not caused the settlement of the transaction guaranteed by the Fund to be suspended in the amount set out in the Rules of Transaction Clearing (organised trading) replacing the cash or non-cash payment arising from the transaction.
2. The provisions of the Rules of Transaction Clearing (organised trading) shall apply to any matters relating to the principles of the use of the Fund that are not regulated herein.
  3. Whenever these rules refer to a defaulting participant, this shall be understood to mean a clearing member affected by default within the meaning of the Rules of Transaction Clearing (organised trading).

## **SECTION 2**

### **PAYMENTS, UPDATES AND ADJUSTMENT OF THE CONTRIBUTIONS TO THE FUND**

#### **§ 3a**

1. Contributions to the Fund shall be calculated on the basis of the exposure of each clearing member resulting from cleared transactions executed in the markets referred to in § 2 subpara. 1, irrespective of the scope of its activity in the clearing system defined according to § 11 subpara. 3 point 1-4 of the Rules of Transaction Clearing (organised trading; including irrespective of any activity performed by the participant at the place of its establishment, head office or separate organised part of such activity for which it has executed a participation agreement).
2. If a participant intends to perform more than one scope of activity in the clearing system and use for such purpose more than one identifier issued to it by KDPW\_CCP (institution code), then it shall indicate the identifier to be used for the purposes of participation in the Fund. For this purpose, the participant shall submit a declaration according to a template defined by KDPW\_CCP, which shall be effective as of the next day following the day of submission of the declaration to KDPW\_CCP. In the absence of such identifier indicated by the participant, KDPW\_CCP may identify any institution code used by the participant in the clearing system and immediately notify the participant thereof.
3. The provisions of the first and second sentence of subpara. 2 shall apply accordingly to any change of the institution code for the purposes referred to in subpara. 2.

#### **§ 4**

1. Participants make payments to the Fund through contributions consisting of:
  - 1/ cash accepted by KDPW\_CCP, or
  - 2/ securities accepted by KDPW\_CCP, which are Treasury securities, or
  - 3/ accepted debt securities, which are denominated in EUR and issued by European Union Member States other than the Republic of Poland,where the types of accepted securities, referred to in points 2 and 3, which may constitute contributions to the Fund, as well as the conditions that such securities need to meet to be accepted as contributions, shall be defined in a resolution of the KDPW\_CCP Management Board.

1a. Cash accepted by KDPW\_CCP within the meaning of subpara. 1 is only cash deposited according to the terms defined in the provisions or the rules and a resolution of the KDPW\_CCP Management Board adopted under the Rules, in the following currencies:

1/ PLN,

2/ EUR.

2. Subject to the provisions of subparas. 3 and 4, as well as the provisions of § 5, subpara. 3, § 6, subpara. 1, § 8, subpara. 3, and § 21, subpara. 3, securities paid in by a participant shall count towards the participant's contribution before any cash assets paid in.

3. Securities paid into the Fund shall count towards the contribution only in part determined by the KDPW\_CCP Management Board by means of a resolution. However, two days prior to the record date used to determine the owners of securities entitled to payments following their redemption, these securities shall cease to count as a valid means of contribution, subject to § 14 subpara. 2.

4. The amount of the contribution paid in using securities shall be equal to the difference between their market value and the product of such market value multiplied by the haircut rate assigned to them, published by KDPW\_CCP according to a procedure defined in a resolution of the KDPW\_CCP Management Board. KDPW\_CCP shall determine the haircut rate of a security taking into account its type, the risk of change of its market value, and its liquidity.

5. The market value of securities shall be determined according to the provisions of § 72 of the Rules of Transaction Clearing (organised trading).

6. The updated market value of securities, referred to in subpara. 1, points 2 and 3, and cash in EUR paid in as contributions by each participant shall be calculated each day in which KDPW\_CCP performs transaction clearing.

7. KDPW\_CCP shall determine the haircut rate of a security and cash in EUR taking into account its type, the risk of change of its market value, and its liquidity.

8. The value of the haircut shall be updated daily by KDPW\_CCP, on the days when KDPW\_CCP performs the clearing of transactions. Changes to the value of the haircut performed as part of the update shall also have a bearing on securities and cash in EUR contributed to the Fund prior to the update.

9. Haircuts for specific securities may be set at 100% level.

10. The provisions of the Rules of Transaction Clearing (organised trading) shall apply in matters concerning the contribution of cash and securities to the Fund, as well as their return, not governed by the rules.

#### § 4a

1. The rights arising from the registration of securities referred to in § 4, subpara. 1, point 3, on the securities account referred to in § 5, subpara. 1, point 2 shall be governed by the applicable legal provisions of the state where the securities account is managed. The KDPW\_CCP Management Board shall indicate, in a resolution, the state where such securities account, on which securities referred to in § 4 subpara. 1, point 3, is managed.

2/ KDPW\_CCP shall accept securities referred to in § 4, subpara. 1, point 3 if:

1/ the applicable legal provisions of the state referred to in subpara. 1 ensure effective payment of such securities as contributions into the Fund and enable their use with priority over third parties in cases

referred to in the Rules and the Rules of Transaction Clearing (organised trading) and in accordance with the provisions of such Rules,

2/ the provisions of the Rules and the Rules of Transaction Clearing (organised trading) concerning the payment of such securities as contributions into the Fund and their use in cases referred to in the Rules are consistent with the applicable legal provisions referred to in subpara. 1.

3. Where securities referred to in § 4 subpara. 1 point 3 are contributed to the Fund:

1/ KDPW\_CCP may make the acceptability of payments in such securities dependent on additional actions to be taken by the participant, as indicated by the Management Board of KDPW\_CCP in a resolution, in order to ensure that the payment of such securities as contributions to the Fund is effective and to enable their use with priority over third parties in cases referred to in the Rules and the Rules of Transaction Clearing (organised trading) and in accordance with the provisions of such Rules;

2/ actions related to the establishment or return of such securities may be taken through the entity which operates the relevant depository system for such securities, under an agreement concluded with it by, respectively, KDPW\_CCP, the participant or its collateral agent;

3/ the value of the contribution to the extent of such securities may be calculated and updated through an entity which operates the relevant depository system for such securities, which has concluded an agreement with KDPW\_CCP, taking into account the haircut rate assigned to such securities, published by KDPW\_CCP.

4. If a clearing member contributing securities to the Fund concludes an agreement with another entity in order to cause the contribution or return of such securities, it shall ensure that the provisions of the agreement are not in contradiction with the provisions of the rules and of resolutions of the Management Board of KDPW\_CCP adopted under the rules.

## § 5

1. The securities referred to in § 4, subpara. 1, points 2 and 3, paid into the Fund by participants shall be registered, respectively:

1/ for securities referred to in § 4, subpara. 1, point 2 – on the securities account managed by the Central Securities Depository of Poland for KDPW\_CCP,

2/ for securities referred to in § 4, subpara. 1, point 3 – on the securities account managed for KDPW\_CCP in the relevant depository system for such securities, indicated by the KDPW\_CCP Management Board in a resolution.

2. Contributions to the Fund shall be paid in as follows:

1/ for cash assets - by means of a debit of the bank account in the relevant clearing bank or in TARGET2 managed for the participant or its payment agent, subject to subpara. 6,

2/ for securities referred to in § 4, subpara. 1, point 2 - by means of the transfer of securities onto the securities account referred to in subpara. 1, point 1, according to the principles described in the rules issued by the Central Securities Depository of Poland, defining the rules for the management of the securities depository and for processing of transaction settlement,

3/ for securities referred to in § 4, subpara. 1, point 3 - by means of the transfer of such securities onto the securities account referred to in subpara. 1, point 2, according to the principles described in the rules issued by the entity indicated by the KDPW\_CCP Management Board in a resolution, which define the

terms of operation of the relevant depository system for such instruments and of the clearing of transactions, subject to § 4a subpara. 3 point 2.

3. Instructions sent to the Central Securities Depository of Poland in order to transfer securities referred to in § 4, subpara. 1, point 2 paid into the Fund directly by a clearing member making contributions or paid into it via its settlement agent, onto the securities account managed by the Central Securities Depository of Poland for KDPW\_CCP, shall indicate that the transferred securities shall count towards a contribution to the Fund and shall be sent according to the regulations referred to in § 2, subpara. 2.

4. Subject to § 4a subpara. 3 point 2, the Management Board of KDPW\_CCP shall define in a resolution the detailed terms of contributing securities to the Fund as well as the detailed terms of their return.

5. Securities contributed to the Fund in the way referred to in subparas. 3 and 4 shall not count towards other contributions made by the participant to the basic resource of the Fund referred to in § 1, subpara. 1.

6. Cash in EUR shall be paid as contributions into the Fund and returned on the basis of instructions sent by the participant, and returned to the bank account indicated according to § 20, subpara. 2, point 3 of the Rules of Transaction Clearing (organised trading).

## § 6

1. A participant shall join the Fund upon the performance of the obligations referred to in subpara. 1-6.

2. A participant shall make a contribution to the basic resource of the Fund for the first time exclusively in the form of cash. The first contribution should be paid in not later than the day of joining the negotiated lending system by the participant or the entity which the participant shall represent as a clearing member in the clearing system but not later than two days prior to the day of the commencement of the activities of the participant or entity in the system.

3. A participant intending to hold the status of clearing member for transactions guaranteed by the Fund, executed by another entity following a change of participant holding such status, shall be obliged to make a contribution to the basic resource of the Fund for the first time not later than two days prior to the date when the participant intends to acquire the status of clearing member to such extent.

4. The amount of the first contribution paid shall equal the minimum contribution determined according to the provisions of § 8, subpara. 2.

## § 7

1. Subject to the provisions of subpara. 3 and 4, contributions to the basic resource of the Fund shall be updated each day in which clearing in the Polish currency is performed by KDPW\_CCP.

2. KDPW\_CCP performs the update by calculating the required amount of the contribution.

3. The update of the contribution of a participant to the basic resource of the Fund is performed for the first time after the close of a trading session on the regulated market or organised trading in the alternative trading system, respectively, on the date on which the participant, or the entity which the participant will be representing within the clearing system as clearing member, may commence conclusion of loans in the negotiated lending system or on the date that the participant acquires the status of clearing member for loans concluded in the system by another entity following a change of participant holding this status.

4. In the event of default, within the meaning of the Rules of Transaction Clearing (organised trading), by a defaulting participant, the KDPW\_CCP Management Board may decide in a resolution to suspend for a set period of time the update of contributions to the basic resource of the Fund or determine other dates of such contribution updates if justified by the safety of trading or the clearing of transactions.

#### § 8

1. The update of the value of the Fund and of the required contribution of each participant shall be performed according to the principles referred to in Appendix 1 to these Rules. The amount of the contribution to the basic resource of the Fund shall be calculated in proportion to the exposures of the clearing member arising from cleared transactions taking into account the minimum contribution.

2. The amount of the contribution to the basic resource of the Fund shall not be lower than PLN 100,000 (minimum contribution). The KDPW\_CCP Management Board may determine another amount for the minimum contribution in a resolution.

3. In cases specially justified by reasons of safety of trading and transaction clearing, the KDPW\_CCP Management Board in a resolution may oblige all or some participants holding the status of clearing member for loans guaranteed by the Fund to pay in contributions in a specific amount other than the amount determined according to subparas. 1 and 2 and decide that such contributions may be paid in in a form other than provided for in the Rules.

#### § 9

1. Subject to the provisions of subpara. 2, the contribution of a participant shall be adjusted if the required contribution is different than the value of the assets paid in by the participant to the basic resource of the Fund.

2. If the assets of the Fund were sold below their purchase price, following their use in accordance with the provisions of § 3 subpara. 1, the level forming the basis for the update adjustment of the contributions shall be defined by the KDPW\_CCP Management Board by means of a resolution.

3. The adjustment of the contribution shall be made by participants paying in a supplementary contribution to the basic resource of the Fund, or following a refund of part of the participant's contribution.

4. A refund of part of the participant's contribution shall only be made in the form of cash, through a credit payment onto the bank account, referred in § 5, subpara. 2, point 1, subject to § 5 subpara. 6. The amount of the refund shall not be higher than the surplus over the part of the participant's contribution, which according to the provisions of § 4 subpara. 3 must remain in cash form.

5. A participant's debits and credits as a result of the adjustment of contributions to the Fund shall be offset (netted) with the participant's debits and credits arising from participation in the clearing system operated by KDPW\_CCP.

#### § 10

1. The adjustment of the contribution shall take place on the basis of documents containing the information referred to in subpara. 2 below, issued by KDPW\_CCP and made available to participants.

2. On the day of the update, KDPW\_CCP shall make available not later than 23:00 hours, to each participant holding the status of clearing member for loans guaranteed by the Fund, information defining the updated amount of the participant's contribution to the basic resource of the Fund, the updated market value of the securities paid in as part of the contribution and the amount of the participant's cash debits and credits that need to be adjusted as part of the next contribution adjustment.

#### § 11

1. A participant shall pay the adjusted contribution, when such contribution consists of cash assets, up to 08:30 hours on the day following the day when the information referred to in § 10, subpara. 2 is made available, indicating that the participant is obliged to make a payment. On the same day, KDPW\_CCP shall refund part of the contribution paid in by the participant if this information indicates a credit owed to the participant. In instances justified by reasons of trading or transaction clearing safety, the Management Board of KDPW\_CCP may, by means of a resolution, designate separate deadlines for each update.

2. Securities may be used as part of the contribution on condition that, before 18:00 hours on the day the information referred to in § 10, subpara. 2 was made available, they were registered, respectively:

1/ for securities referred to in § 4, subpara. 1, point 2 - on the securities account referred to in § 5, subpara. 1, point 1,

2/ for securities referred to in § 4, subpara. 1, point 3 - on the securities account managed for KDPW\_CCP in the relevant depository system for such securities, indicated by the KDPW\_CCP Management Board in a resolution.

3. An adjustment consisting in a refund of part of the contribution paid in by the participant shall be suspended if a situation arises such that participants are obliged to pay in replacement or additional contributions referred to in § 20, subparas. 1 and 2, and in § 21, subparas. 1-3.

### **SECTION 3 WITHDRAWAL OF SECURITIES**

#### § 12

1. Participants may withdraw securities paid in by them to the Fund by means of an instruction sent to KDPW\_CCP to this effect.

2. KDPW\_CCP shall send an instruction to the depository system operated, respectively, by the Central Securities Depository of Poland or the entity referred to in § 5, subpara. 2, point 3, to transfer securities from the securities account referred to in § 5, subpara. 1, in accordance with the contents of the instruction referred to in subpara. 1, on the day following the day of its receipt, on condition that:

1/ the participant has performed the obligations relating to the adjustment of the contribution,

2/ the withdrawn securities do not need to be used by the Fund, and

3/ the instruction referred to in subpara. 1 was sent to KDPW\_CCP prior to 18:00 hours on the day preceding the date of the intended withdrawal.

3. If the instruction, referred to in subpara. 1 is sent to KDPW\_CCP, then the documents referred to in § 10, subpara. 2 shall not include the value of the securities which are to be withdrawn in accordance with

the instruction.

#### § 13

1. A participant shall be obliged to withdraw securities paid into the Fund two days prior to the record day on which those entitled to receive payments following redemption or cancellation of these securities are determined. This does not exempt participants from the obligation to adjust the contribution.
2. KDPW\_CCP may send an instruction to transfer securities which have not been withdrawn by the participant according to the principle described in subpara. 1 from the securities account referred to in § 5, subpara. 1, point 1 or 2, respectively, onto the account from which the securities were paid into the Fund.

### **SECTION 4 RESERVE RESOURCE OF THE FUND**

#### § 14

1. Subject to subpara. 4, the reserve resource of the Fund consists of:
  - 1/ revenue from the investment of cash assets paid into the basic resource in the Polish currency, and
  - 2/ assets described in § 20, subpara. 4, and
  - 3/ revenue generated by the investment of assets, as referred to in points 1- 2 above.
2. If a participant does not perform the obligations described in § 13, the payment from the issuer received for the redemption or cancellation of securities that were paid in by the participant to the Fund shall be added to the basic resource of the Fund, increasing the value of cash assets paid in by that participant as contribution.
3. KDPW\_CCP shall be entitled to retain all proceeds from the management of the cash resources of the Fund in EUR, if any.
4. Any assets paid by a clearing member as a contribution to the Fund or due to such clearing member as a surplus above the required contribution to the basic resource shall be counted towards the participant's contribution to the reserve resource of the Fund. Such assets shall be withdrawn according to the procedures applicable to the return of assets paid as contributions to the basic resource, subject to § 16 subpara. 1-3, which shall apply accordingly.

#### § 15

1. The share of a participant in the revenue generated by the investment of assets from the basic resource in the Polish currency and of assets from the reserve resource, referred to in § 14 subparas. 1-3, shall be proportional to the participant's share in the basic resource in such currency and share in the reserve resource, respectively, subject to the provisions of subpara. 2.
2. The share of a participant in the assets described in § 20, subpara. 4 shall be proportional to that participant's share in the basic resource.

#### § 16

1. The share in the revenue generated by the investment of assets referred to in § 14 subpara. 1 point 1



and 3 shall be paid out to participants quarterly, subject to subpara. 3 – 5.

2. Benefits from securities contributed to the Fund shall be transferred by KDPW\_CCP to the participant who contributed such securities to the Fund on the day of receipt of such benefits, subject to subpara. 3 – 5.

3. In the event of a default within the meaning of the Rules of Transaction Clearing (organised trading), the KDPW\_CCP Management Board may, in a resolution, suspend the payment of assets referred to in subpara. 1 and 2 until the measures referred to in § 59 *et seq.* of the Rules of Transaction Clearing (organised trading) are completed or participants perform the obligation to pay in contributions referred to in § 20 subpara. 1 and 2 or § 21 subpara. 1 – 3.

4. If the payment of assets referred to in subpara. 1 and 2 is suspended, such assets shall be added to the share of each clearing member in the reserve resource of the Fund and shall be counted towards contributions referred to in § 20 subpara. 1 and 2 or § 21 subpara. 1 – 3, subject to § 17 subpara. 2.

5. As a remitter of the withholding tax on revenue earned by clearing members who are non-residents, KDPW\_CCP shall charge the withholding tax in the maximum amount applicable under Polish law prior to transferring to such members any benefits from securities contributed to the Fund, any payment from the issuer received for the redemption or cancellation of such securities or any revenue referred to in subpara. 1.

6. KDPW\_CCP shall immediately notify participants of any suspension of payment of assets referred to in subpara. 1 and 2.

## **SECTION 5 USING THE ASSETS OF THE FUND REPLACEMENT AND ADDITIONAL CONTRIBUTIONS**

### § 17

1. In the event of a default within the meaning of the Rules of Transaction Clearing (organised trading):

1/ contributions to the basic resource of the Fund shall be adjusted unless their update has been suspended according to § 7 subpara. 4, subject to § 11 subpara. 3 and § 18,

2/ KDPW\_CCP may disburse any assets contributed to the basic resource of the Fund for the purposes of the Fund.

2. Prior to any disbursement of a contribution of a defaulting participant paid to the basic resource of the Fund, KDPW\_CCP shall count assets forming its share in the reserve fund towards such contribution.

### § 18

1. KDPW\_CCP shall allow clearing members other than the defaulting participant to replace securities or cash in euro paid by them to the Fund with cash in the Polish currency unless:

1/ this shall jeopardise the safety of trading or the safety of clearing,

2/ this shall affect the deadlines of measures referred to in § 59 *et seq.* of the Rules of Transaction Clearing (organised trading), or

3/ this shall increase the cost of the measures referred to in point 2.

For this purpose, KDPW\_CCP shall notify such clearing members of the time limit within which they may

submit a declaration relating to the replacement of securities or cash in euro with cash assets in the Polish currency up to the amount of the required contribution to the basic resource of the Fund.

2. The declaration referred to in subpara. 1 should indicate, respectively, the quantity and identifier of securities or the quantity of cash assets in euro that are to be replaced. The replacement shall take place provided that:

- 1/ the cash assets in the Polish currency available in the bank account referred to in § 5 subpara. 2 point 1 are sufficient to replace the assets indicated in the participant's declaration, and
- 2/ the time limit set by KDPW\_CCP, referred to in subpara. 1, is still pending.

#### § 19

1. Disbursement of the assets of the Fund shall be made from the basic resource. If securities form part of the assets of the Fund that are subject to the disbursement, KDPW\_CCP shall sell these securities.

2. If securities form part of the assets of the fund that are subject to the disbursement, KDPW\_CCP shall sell such securities on the regulated market or outside the regulated market with a view to selling them as soon as possible at the best possible price.

#### § 20

1. Following the completion of measures defined in the Rules of Transaction Clearing (organised trading) involving any disbursement of assets of the Fund, KDPW\_CCP shall update the contributions to the basic resource of the Fund and determine the amount of replacement contributions. Participants shall be obliged immediately to replenish the Fund according to the update. The provisions of § 7 - § 11 shall apply accordingly.

2. Replacement contributions shall be paid in proportion to the contributions of participants to the basic resource of the Fund. A participant's share in the reserve resource shall count towards the replacement contribution.

3. The obligation to make replacement contributions shall not apply to the defaulting participant, whose obligations arising from the status of clearing member for transactions guaranteed with the Fund have been performed using assets of the Fund.

4. Cash paid into the Fund according to the provisions of § 59, subpara. 5, § 60, subpara. 4, and § 64, subparas. 7 and 8 of the Rules of Transaction Clearing (organised trading) shall be allocated to the reserve resource of the Fund; however, where such assets are in a currency other than the Polish currency, KDPW\_CCP may convert them into the Polish currency at the market exchange rate at the date of the conversion prior to allocating such assets to such resource.

#### § 21

1. If the own resources of KDPW\_CCP fall to 110% of the determined amount of the capital requirement due to actions of KDPW\_CCP taken in order to ensure that an obligation arising from the clearing of a transaction accepted to the clearing system are met, participants holding the status of clearing member for loans guaranteed by the Fund shall make additional contributions in proportion to the amount of their existing contributions to the basic resource of the Fund resulting from the most recent update

performed before measures were taken under the Rules of Transaction Clearing (organised trading) involving disbursement of assets of the Fund.

2. The amount of the additional contribution which the participant may be required to make in the event referred to in subpara. 1, shall be not more than 50% of the total amount of the participant's existing aggregate contributions to the basic resource of the Fund, resulting from the most recent performed update (maximum amount of additional contribution).

3. Additional contributions shall be paid in only in cash within a time limit set by KDPW\_CCP, which shall be not earlier than the day following the day of requiring the payment of such contributions. The KDPW\_CCP Management Board may decide by way of a resolution that additional contributions shall be made in instalments whose amount shall be set in such resolution.

4. In the event referred to in subpara. 1, contributions shall be updated taking into account the additional contribution that the participant has been called to pay. The additional contribution referred to in subpara. 1 shall be maintained by the participant until the next update after restoring a situation where the own resources of KDPW\_CCP exceed the determined amount of the capital requirement.

## SECTION 6

### CONSEQUENCES OF TERMINATION OR SUSPENSION OF PARTICIPATION OR PARTICIPANT ACQUISITION

#### § 22

1. Subject to subpara. 2 and 3, in instances when participant status is terminated or limited to the extent that it involves the loss of clearing member status for loans guaranteed by the Fund referred to in § 1, subpara. 1, KDPW\_CCP shall refund the participant the securities and cash assets remaining from contributions made by that participant to the basic resource, as well as the cash assets being equal to the participant's share in the reserve resource, as at the day of the refunding of the assets. The assets refunded to the participant may be subject to a deduction by an amount necessary to perform the clearing of transactions executed in connection with other transactions guaranteed by the assets of the Fund, for which the participant held the status of clearing member.

2. The refund shall take place once the obligations of the participant have been met, arising from the participant's status of clearing member for transactions guaranteed by the guarantee fund referred to in § 1, subpara. 1.

3. If an event of default within the meaning of the Rules of Transaction Clearing (organised trading) occurs before the participant status is terminated or limited to the extent that it involves the loss of clearing member status for transactions guaranteed by the Fund, then:

1/ the clearing member's participation in the Fund shall not terminate until the measures referred to in § 59 *et seq.* of the Rules of Transaction Clearing (organised trading) are completed and the clearing member performs the obligation to pay in the contribution referred to in § 21 subpara. 1 – 3,

2/ the assets forming the clearing member's share in the reserve resource shall be counted towards the contribution referred to in § 21 subpara. 1 – 3,

3/ the assets shall not be returned until the measures referred to in § 59 *et seq.* of the Rules of Transaction Clearing (organised trading) are completed and the clearing member performs the obligation to pay in the contribution referred to in § 21 subpara. 1 – 3.

4. The provisions of subpara. 1 above shall not apply in instances where:

1/ termination of participation status takes place as a result of the acquisition of a participant by another entity, which assumes all the rights of the participant being taken over. In such instances, assets paid into the Fund by the participant being taken over and that participant's share in the reserve resource shall be allocated to the acquiring participant, or

2/ limitation of participation status is caused by the acquisition of a participant by another entity, assuming the participant's rights within a specified scope, and the procedure described in the second sentence of point 1 shall be applied to contributions to the basic resource and to the share of the reserve resource of the participant being taken over.

#### § 23

1. Subject to the provisions of subpara. 2, refunds of the assets referred to in § 22, subpara. 1 shall be made within a period of 7 days following the performance of the obligations referred to in § 22, subpara. 2 and in the case referred to in § 22 subpara. 3 after the measures referred to in § 59 *et seq.* of the Rules of Transaction Clearing are completed and the participant performs the obligation to pay in the contribution referred to in § 21 subpara. 1 – 3.

2. The refund of entitlements from securities shall take place on the day these entitlements have been received, subject to § 16 and § 22, subpara. 1 – 3.

3. In instances of refunds of the assets referred to in § 22 subpara. 1, the provisions of § 12 subpara. 2 and 3 shall apply.

#### § 24

[repealed]

#### § 25

[repealed]

#### § 26

In instances where a participant is acquired by another entity, within a given scope, the amount of contribution to the basic resource of the Fund required to be paid in by the acquiring entity shall be determined at the level of the most recent updated contribution of the participant being acquired, paid in during the period of the takeover, subject to the provisions of § 27.

#### § 27

1. The amount of the contribution to the basic resource of the Fund required to be paid in by the acquiring entity, who is at the same time a participant in the Fund, shall be determined in accordance with general principles, however, using data relating to both the acquiring entity and the entity being taken over, as the basis of calculation, subject to the provisions of subpara. 2.

2. When calculating the contribution, described in subpara. 1, data relating to the participant being taken over shall only apply in the scope of the takeover.

§ 28  
[repealed]

**SECTION 7**  
**REPORTING**

§ 29

The Management Board of KDPW\_CCP shall present participants of the Fund with semi-annual and annual reports on its activities in relation to the management of the assets of the Fund.

**RULES FOR DETERMINING THE VALUE OF THE ON-DEMAND LENDING GUARANTEE FUND  
AND THE AMOUNT OF CONTRIBUTIONS OF CLEARING MEMBERS**

- I. The value of the guarantee fund is determined by KDPW\_CCP in the following steps:
  1. Calculation of uncovered risk, separately for own portfolios of the clearing member (i.e., all positions arising from transactions registered in own position accounts of the clearing member) and for client portfolios (i.e., all positions arising from transactions registered in client position accounts of the clearing member). Uncovered risk is equal to the difference between the hypothetical loss on a portfolio determined by KDPW\_CCP as at the end of day in the clearing system, on the basis of stress-test parameters determined by KDPW\_CCP, and the value of the initial margin required of the clearing member, provided that uncovered risk of client portfolios of clearing members has a floor value equal to zero;
  2. Calculation of the exposure of each clearing member as at the given day in the clearing system, equal to the sum of uncovered risk of all own portfolios and all client portfolios of the clearing member;
  3. Calculation of the maximum exposure as at the given day in the clearing system equal to the greater of:
    - 1/ the biggest clearing member exposure of all exposures calculated in item 2, or
    - 2/ the sum of the second and third biggest clearing member exposures of all exposures calculated in item 2;
  4. Calculation of the value of the Fund equal to the biggest maximum exposure calculated in item 3 at all days in the clearing system within the time window set by KDPW\_CCP multiplied by the parameter securing the change of the exposure value on the next day.\*
- II. The required contribution of a clearing member to the Fund is calculated in proportion to the clearing member's average exposure (calculated in item I.2) within the time window set by KDPW\_CCP.\* The required contribution of a clearing member to the Fund is equal to or greater than the minimum contribution set by KDPW\_CCP.

\* KDPW\_CCP notifies clearing members of the defined time window referred to in items I.4 and II and the parameter securing the change of exposure referred to in item I.4 in accordance with § 4a subpara. 1 or 2 of the Rules of Transaction Clearing.