

OTC GUARANTEE FUND RULES

Valid as of 21 February 2018

Section 1 General Provisions

§ 1

1. This Appendix, hereinafter referred to as the OTC Guarantee Fund Rules, defines the procedures for the formation and use of the fund which guarantees the proper performance of obligations arising from transactions (OTC guarantee fund).
2. KDPW_CCP may manage the assets of the OTC guarantee fund.
3. Specific deadlines described in these Rules shall be used according to their definition in the Rules of Transaction Clearing (Non-organised Trading), hereinafter referred to as the Rules.
4. The provisions of § 7 of the Rules shall be used to determine and calculate the deadlines.

§ 2

1. The OTC guarantee fund guarantees the performance of obligations arising from transactions accepted into the OTC clearing system and arising from non-execution or undue execution of such transactions, subject to subpara. 4.
2. The OTC guarantee fund is formed from contributions of participants holding clearing member status.
3. The OTC guarantee fund consists of the basic resource and the reserve resource.
4. The OTC guarantee fund shall guarantee, under extreme but plausible market conditions, the performance of obligations arising from transactions and arising from non-execution or undue execution of such transactions, according to Appendix 1 to the OTC guarantee fund rules.
5. KDPW_CCP shall perform stress tests in order to monitor the ability to perform obligations arising from transactions whose clearing parties are clearing members.
6. KDPW_CCP shall determine, on the basis of the weighted average value of the OTC guarantee fund in the last four update periods, the minimum value below which the value of the fund must not fall. The minimum value shall be equal to half the weighted average value of the OTC guarantee fund rounded off to PLN 1,000,000 (one million zlotys).
7. KDPW_CCP shall determine, on the basis of the weighted average value of the OTC guarantee fund in the last four update periods, the maximum value; once it is exceeded, KDPW_CCP shall no longer accept contributions of participants to the basic resource of the OTC guarantee fund until the next update begins. The maximum value shall be equal to twice the weighted average value of the OTC guarantee fund rounded off to PLN 1,000,000 (one million zlotys).
8. The minimum value and the maximum value referred to, respectively, in subpara. 6 and 7 shall be updated on the each last day of a calendar month in which contributions to the basic resource of the OTC guarantee fund are updated.

§ 3

1. The assets of the OTC guarantee fund shall be used for the following purposes:

- 1/ to cover the differences between the price of securities, if any, between a repo transaction or sale transaction 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 repo transaction or sale transaction, securities concerned by the transaction 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 payments owed by the participant being the other clearing counterparty where the defaulting participant has not fulfilled the cash payment obligations arising from clearing of a transaction guaranteed by the OTC fund,
 - 3/ to meet a replacement payment obligation towards the participant being the other clearing counterparty,
 - 4/ in other cases defined in the rules.
2. The provisions of the Rules shall apply to any matters relating to the principles of the use of the OTC guarantee fund that are not regulated herein.

SECTION 2
PAYMENTS, UPDATES AND ADJUSTMENT OF THE CONTRIBUTIONS
TO THE OTC GUARANTEE FUND

§ 4

1. Participants make payments to the OTC guarantee 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 OTC guarantee 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 the Detailed Rules of the OTC Clearing System, in the following currencies:
- 1/ PLN,
 - 2/ EUR.
2. Subject to the provisions of subpara. 3 and 4, as well as the provisions of § 5 subpara. 3, § 6 subpara. 2 and § 8 subpara. 3, securities referred to in subpara. 1 points 2 and 3 paid in by a clearing member shall count towards the clearing member's contribution before any cash assets paid in. For participants making separate contributions, the cash assets and securities referred to in subpara. 1 point 2 and securities referred to in subpara. 1 point 3 paid in by the participants shall be counted separately for each of these contributions.
3. Securities referred to in subpara. 1 points 2 and 3 paid into the OTC guarantee 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.

4. The amount of the contribution paid in using securities referred to in subpara. 1 points 2 and 3 and cash in EUR shall be equal to the market value of the securities less their market value times the assigned haircut rate published by KDPW_CCP according to a procedure defined in a resolution of the KDPW_CCP Management Board.
5. The market value of securities shall be determined according to the provisions of § 78 of the Rules.
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 define the value of the haircut rate for each security referred to in subpara. 1 points 2 and 3 and cash in EUR depending on its type, market price volatility risk, and liquidity.
8. The value of the haircut rate shall be updated by KDPW_CCP for every day in which KDPW_CCP performs transaction clearing. Changes to the level of the haircut rate following its update shall also apply to securities referred to in subpara. 1 points 2 and 3 and cash in EUR paid into the OTC guarantee fund prior to the introduction of the change.
9. The level of the haircut rate for specific securities referred to in subpara. 1 points 2 and 3 may be set at 100%.
10. The provisions of the rules shall apply in matters concerning the contribution of cash and securities to the fund, as well as their return, not governed by the OTC guarantee fund 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 posting of such securities as contributions into the OTC guarantee fund and enable their use with priority over third parties in cases referred to in the rules and the OTC guarantee fund rules and in accordance with the provisions of such rules,
 - 2/ the provisions of the rules and the OTC guarantee fund rules concerning the posting of such securities as contributions into the OTC guarantee 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 posted as a contribution into the OTC guarantee fund:
 - 1/ KDPW_CCP may make the posting of such securities dependent on additional actions to be taken by the participant, as indicated by the KDPW_CCP Management Board in a resolution, in order to ensure effective posting of such securities as contributions into the OTC guarantee fund and enable their use with priority over third parties in cases referred to in the rules and the OTC guarantee fund rules and in accordance with the provisions of such rules,
 - 2/ actions to post and release such securities may be performed with the intermediation of an entity operating the relevant depository system for such securities, under an agreement concluded with such entity by KDPW_CCP, the participant or its collateral agent, respectively,
 - 3/ the valuation of the contribution, to the extent that it is formed of such securities, may be calculated and updated with the intermediation of an entity operating the relevant depository

system for such securities, which has concluded an agreement with KDPW_CCP, taking into account the haircut assigned to such securities as published by KDPW_CCP.

4. If a clearing member posting securities as contributions into the OTC guarantee fund concludes an agreement with another entity in order to establish or release such collateral, it shall ensure that the agreement is not in conflict with the rules or resolutions of the KDPW_CCP Management Board issued under the rules.

§ 5

1. The securities referred to in § 4 subpara. 1 points 2 and 3, paid into the OTC guarantee 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 OTC guarantee 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 clearing member 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 such securities onto the securities account referred to in subpara. 1 point 1, according to the principles described in the relevant 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 OTC guarantee 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 OTC guarantee 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 OTC guarantee fund as well as the detailed terms of their return.

5. Securities contributed to the guarantee 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 OTC guarantee fund.

6. Cash in EUR shall be paid as contributions into the OTC guarantee fund and returned on the basis of instructions sent by the participant, and returned to the bank account indicated according to § 23 subpara. 2 point 3 of the rules.

§ 6

1. A clearing member shall join the OTC guarantee fund upon the performance of the obligations

referred to in subpara. 2-4.

2. A clearing member shall make the first contribution to the basic resource of the OTC guarantee fund exclusively in the form of cash. The first contribution should be paid in not later than two days prior to the day of the commencement of the activities of the participant in the OTC clearing system.

3. A participant intending to hold the status of clearing member for transactions guaranteed by the OTC guarantee fund, executed by another entity following a change of participant holding such status, shall be obliged to make the first contribution to the basic resource of the fund 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 five-fold amount of the minimum contribution determined according to the provisions of § 8 subpara. 2.

§ 7

1. Subject to the provisions of subpara. 3, contributions to the basic resource of the OTC guarantee fund shall be updated on the last day of each calendar month, and if this date should fall on a day on which KDPW_CCP does not process transaction clearing - on the last day, preceding that day, in which clearing 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 is performed for the first time, respectively, on the date on which the clearing member will commence activities in the OTC clearing system or on the date that the participant acquires the status of clearing member for transactions executed by another entity following a change of participant holding this status.

§ 8

1. The update of the contributions shall be performed according to the principles described in Appendix 1 to the OTC guarantee fund rules.

2. The amount of the contribution to the basic resource of the OTC guarantee fund shall not be lower than PLN 1,000,000 (one million zlotys) - 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 clearing members to pay in contributions in a specific amount other than the amount determined according to subpara. 1 and 2 and decide that such contributions may be paid in in a form other than provided for in the Rules and the OTC guarantee fund rules.

§ 9

1. Subject to the provisions of subpara. 2, the contribution shall be adjusted in the following instances:

1/ when the updated amount of the participant's contribution is higher or lower than the value of the contribution paid in by the participant to the basic resource of the OTC guarantee fund, or

2/ when the updated value of the securities paid in as part of the participant's contribution is higher or lower than the market price of the securities at the time of the last payment of the participant's contribution.

2. If the assets of the OTC guarantee 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 OTC guarantee 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 limit of the participant's contribution, which according to the provisions of § 4 subpara. 3 must remain in cash form.

5. A clearing member's debits and credits as a result of the adjustment of contributions to the OTC guarantee fund shall be offset (netted) with the clearing member's debits and credits arising from the payment of maintenance margins and marking to market.

§ 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 CET, to each clearing member, information defining the updated amount of the participant's contribution to the basic resource of the OTC guarantee 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.

3. The information referred to in subpara. 2 shall also be made available by KDPW_CCP on every day on which KDPW_CCP shall perform transaction clearing, and if the day that the information is made available is not at the same time the date on which the contribution is updated, then this information shall indicate the amount of the contribution that would be required from participants if on the day the information is made available the update had been performed, while the amount of the cash debits and credits shall be determined on the basis of changes in the current market price of securities forming part of the contribution.

4. A participant shall pay the supplementary contribution when this contribution consists of cash assets on the day following the day when the information referred to in subpara. 2 or 3 is made available, indicating that the participant is obliged to make a payment, but not later than the time determined in the Detailed Rules of the OTC Clearing System. 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.

5. Securities may be used as part of the supplementary contribution on condition that, on the day the information referred to in subpara. 2 or 3 was made available, but not later than the time determined in the Detailed Rules of the OTC Clearing System, 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.

SECTION 3
WITHDRAWAL OF SECURITIES

§ 11

1. Clearing members may withdraw securities paid in by them to the OTC guarantee 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 point 1 or 2, 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 OTC guarantee fund, and
 - 3/ the instruction referred to in subpara. 1 was sent to KDPW_CCP prior to 18:00 CET 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 and 3 shall not include the value of the securities, which are to be withdrawn in accordance with the instruction.

§ 12

1. A clearing member shall be obliged to withdraw securities paid into the OTC guarantee fund two days prior to the record day on which those entitled to receive payments following redemption 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, onto the account from which the securities were paid into the OTC guarantee fund.

SECTION 4
RESERVE RESOURCE OF THE OTC GUARANTEE FUND

§ 13

1. The reserve resource of the OTC guarantee fund consists of:
 - 1/ revenue from the investment of cash assets paid in the Polish currency into the basic resource, and
 - 2/ the assets described in § 19 subpara. 5, and
 - 3/ revenue generated by the investment of assets, as referred to in points 1- 2 above.
2. Entitlements from securities paid into the OTC guarantee fund shall be transferred by KDPW_CCP to the participants who has paid these securities to the fund, on the day the entitlements are received, in the amount due, less any relevant taxes. However, if prior to the payment of the entitlement, a participant is obliged to make a contribution, described in § 19 subpara. 1 and 2, and the participant does not perform this obligation within the necessary deadline, these entitlements shall be reassigned as contribution to the basic resource of the fund in a amount equal to the value of the contribution.

3. If a participant does not perform the obligations described in § 12 subpara. 1, the payment from the issuer received for the redemption of securities that were paid in by the participant to the OTC guarantee fund shall be added to the basic resource of the fund, increasing the value of cash assets paid in by that participant as contribution.

4. KDPW_CCP shall be entitled to retain all proceeds from the management of the cash resources of the fund in EUR, if any.

§ 14

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 § 13 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 § 19 subpara. 5 shall be proportional to that participant's share in the basic resource.

§ 15

The share in the reserve resource of the OTC guarantee fund shall be paid out to participants quarterly, unless there has been an obligation imposed on a participant to make contributions referred to in § 19 subpara. 1 and 2. In such instances, participants' shares in the reserve resource shall be applied to contributions to the basic resource.

SECTION 5

USING THE ASSETS OF THE OTC GUARANTEE FUND. REPLACEMENT CONTRIBUTIONS AND ADDITIONAL CONTRIBUTIONS

§ 16

If the value of the assets required to meet the payment obligation from the assets of the OTC guarantee fund is higher than the total value of the cash assets, paid in as contributions to the basic resource of the fund by the participant, who despite the obligation, did not hold the necessary assets to enable the transaction to be settled, KDPW_CCP shall assign to the basic resource of the OTC guarantee fund those securities paid in by that participant, and if necessary, also shall assign to the basic resource of the OTC guarantee fund securities paid in by other participants, recognising the need to ensure the fastest possible sale of these securities at the best available price.

§ 17

1. Immediately upon determining the need to allocate securities to the basic resource of the OTC guarantee fund, KDPW_CCP shall inform participants paying in contributions of this fact.

2. In order to prevent the allocation of securities to the basic resource of the OTC guarantee fund, the participant should provide KDPW_CCP, not later than 20 minutes following the moment KDPW_CCP has made the information referred to in subpara. 1 available, with a declaration relating to the replacement of securities contributed to the fund with cash assets in an amount equal to the current market value of the securities determined while applying the haircut rate, referred to in § 4 subpara. 4. The declaration should indicate the number of securities that are to be replaced, along with their identifier. The replacement shall take place on condition that the cash available on the bank account, referred to in § 5 subpara. 2 point 1 is sufficient to replace the securities indicated in

the participant's declaration.

§ 18

1. Disbursement of the assets of the OTC guarantee fund shall be made from the basic resource. If securities form part of the assets of the OTC guarantee fund that are subject to the disbursement, KDPW_CCP shall sell these securities.
2. Securities held by a participant in the OTC guarantee fund, which were not assigned to the basic resource, according to the provisions of § 16, shall not be used and may be withdrawn by the participant, while applying the provisions of § 11.

§19

1. Subject to the provisions of subpara. 3, clearing members whose contributions have been disbursed shall be obliged immediately to replace the used part of the OTC guarantee fund. Replacement contributions shall be made relative to the size of the amounts of contributions made by participants to the basic resource of the OTC guarantee fund. The value of the participant's share in the reserve resource shall be counted as part of the replacement contribution, while applying the principles set out in § 13 subpara. 2.
2. Replacement contributions shall be paid in up to the amount of the difference between the used part of the OTC guarantee fund and the total value of assets paid in as contributions to the basic resource of the fund by the defaulting participant, who despite the obligation, did not hold the necessary assets to perform obligations arising from transaction clearing.
3. The obligation to make replacement contributions shall not apply to the defaulting participant referred to in subpara. 2 above.
4. KDPW_CCP shall call on clearing members to make replacement contributions if, according to the provisions of the Rules, the assets of the OTC guarantee fund have been used in part or in whole.
5. Cash paid into the OTC guarantee fund according to the provisions of § 101 subpara. 3 or § 105 subpara. 5 of the Rules shall be allocated to the reserve resource of the OTC guarantee 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.

§ 19a

1. Where, due to actions taken by KDPW_CCP in order to cause the performance of an obligation arising from the clearing of a transaction accepted to the OTC clearing system, the amount of own funds of KDPW_CCP falls to 110% of the set capital requirement, clearing members shall be obliged to make additional contributions relative to the value of their contributions made thus far to the basic resource of the fund, arising from the most recent update.
2. The amount of the additional contribution that the participant may be obliged to make in the event described in subpara. 1 shall not exceed 50% of that participant's total amount of contributions to the basic resource of the fund, arising from the most recent update (maximum amount of additional contribution).
3. The additional contributions shall only be paid in the form of cash within the deadline defined by KDPW_CCP, set at the earliest on the day following the date of the demand for additional payment. The KDPW_CCP Management Board may decide in a resolution that additional contributions may be paid in instalments whose amount shall be defined in such resolution.

4. In an event described in subpara. 1, contributions shall be updated taking into account the additional contribution that the participant has been called to make. The additional contribution referred to in subpara. 1 shall be maintained by the participant until the time of the next update following the restitution of a situation where the amount of own funds of KDPW_CCP is greater than the set capital requirement.

5. The provisions of subpara. 1-4 shall apply subject to § 108a subpara. 1 of the Rules.

SECTION 6

CONSEQUENCES OF TERMINATION, CHANGE OR SUSPENSION OF PARTICIPATION OR PARTICIPANT ACQUISITION

§ 20

1. In instances when participant status is terminated or limited to the extent that it involves the loss of clearing member status for transactions guaranteed by the OTC guarantee fund, 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, calculated as at the day of the refunding of the assets to the participant. The assets refunded to the participant may be subject to a deduction by an amount necessary to perform the settlement of transactions executed in connection with other transactions guaranteed by the assets of the OTC guarantee 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 OTC fund.

3. 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 OTC guarantee 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 participant 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.

§ 21

1. Subject to the provisions of subpara. 2, refunds of the assets referred to in § 20 subpara. 1 shall be made within a period of 7 days following the performance of the obligations referred to in § 20 subpara. 2.

2. The refund of entitlements from securities shall take place on the day these entitlements have been received, subject to § 20 subpara. 1 and 2.

§ 22

The contribution made by a participant to the basic resource of the OTC guarantee fund shall not be subject to updates during the period of the suspension of participation, however, it shall be used and replenished, in accordance with general principles, up to the level of contribution on the day of suspension of participation.

§ 23

In instances of restitution of participant status following a period of suspension, the required amount of the contribution paid in by such a participant to the basic resource of the OTC guarantee fund shall be determined according to the principles described in § 6 subpara. 4.

§ 24

In instances where a participant is acquired by another entity, within a given scope, the amount of contribution to the basic resource of the OTC guarantee 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 § 25.

§ 25

1. The amount of the contribution to the basic resource of the OTC guarantee 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.

**SECTION 7
REPORTING**

§ 26

The Management Board of KDPW_CCP shall present participants of the OTC guarantee fund with semi-annual and annual reports on its activities in relation to the management of the assets of the OTC guarantee fund.

Rules for determining the amount of contributions to the OTC fund

The basis used in determining the total size of the fund and the contributions of participants with the status of clearing member is the level of open risk. Open risk is the difference between the value of the estimated loss on the closing of positions of the participant under the most unfavourable stress test scenario and the value of the maintenance margin calculated on the preceding day, taking into account marking to market between counterparties to transactions.

Stress test scenarios take into account extreme but plausible changes of market parameters (interest rates, prices of financial instruments) for the given class of assets.

Open risk is measured on the basis of:

- 1) estimated loss on the closing of positions of the participant under the stress test scenario;
- 2) the calculated value of margin requirements for OTC market instruments;
- 3) marking to market between OTC market transaction counterparties;
- 4) historical interest rate curves;
- 5) parameters determined by KDPW_CCP;

The first step consists of the calculation of daily open risk exposure for each OTC market transaction portfolio. OTC market transaction portfolio means positions opened as a result of transactions executed on the OTC instrument market, which are settled using the same numbered account held in the relevant settlement system.

Next, the value of each open risk exposure is combined to give the total daily open risk, calculated for a participant holding the status of clearing member.

The final open risk value for a participant holding the status of clearing member is the smaller of the following two values: the maximum open risk of the participant, calculated in a given time period; and the average open risk of that participant in the same time period, increased by a standard deviation factor of 3.

The size of the OTC guarantee fund is determined using the greater of the following two values: the maximum value of the final open risk of all participants; and the sum of the second and third biggest value of final open risk, and is adjusted by risk parameters including the value of assigned credit limits. The final value is limited by the minimum and maximum levels adopted by KDPW_CCP. Contribution payment amounts are determined proportionally to the value of open risk exposure for each participant.